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H – 1238

International Court of Justice

H1238 - 0002

I N T E R N A T I O N A L
M I L I T A R Y T R I B U N A L

T R I A L B R I E F
A G A I N S T
T H E D E F E N D A N T
A R T H U R S E Y S S - I N Q U A R T

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3. "Reichscabinet", by Section 6, page 4.

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A. SECTION OF INDICTMENT

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Statement of Individual Responsibility for Crimes set forth in Counts I, II, III and IV of the Indictment.

ARTHUR SEYSS-INQUART

"The defendant Seyss-Inquart between 1932 - 1945 was: a member of the Nazi Party, a General in the SS, Councillor of Austria, Minister of the Interior and Security of Austria, Chancellor of Austria, a member of the Reichstag, a member of the Reich Cabinet, Reich Minister without Portfolio, Chief of the Civil Administration in South Poland, Deputy Governor General of the Polish Occupied Territory, and Reich Commissar for the Occupied Netherlands. The defendant Seyss-Inquart used the foregoing positions and his personal influence in such a manner that: he promoted the seizure and the consolidation of control over Austria by the Nazi conspirators set forth in Count One of the Indictment; he participated in the political planning and preparation of the Nazi Conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements and Assurances set forth in Counts One and Two of the Indictment; and he authorized, directed and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property."

B. LEGAL REFERENCES:

1. Charter of the International Military Tribunal, II, Articles 6, 6(a), 6(b), 6 (c), 7 and 8.
2. The Hague Regulations of 1907, Articles 46 to 56, inclusive.
3. Treaty of St. Germain, Article 88.
4. Treaty of Versailles, Article 80.

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5. Austro-German Agreement, 11 July 1936.

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C. STATEMENT OF EVIDENCE

"The defendant Seyss-Inquart used the foregoing positions and his personal influence in such a manner that: he promoted the seizure and consolidation of control over Austria by the Nazi conspirators set forth in Count One of the

Indictment; he participated in the political planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements and Assurances set forth in Counts One and Two of the Indictment, and he authorized, directed and participated in the War Crimes set forth in Count Three of the Indictment and the Crimes against Humanity set forth in Count Four of the Indictment, including a wide variety of crimes against persons and property".

WITHIN THE NAZI CONSPIRACY THE DEFENDANT, SEYSS-INQUART, BECAME THE EXPERT MANIPULATOR AND SUBJUGATOR OF COUNTRIES TO BE INVADED OR ALREADY INVADED BY THE NAZI CONSPIRATORS, FIRST OF AUSTRIA, LATER OF POLAND AND THE NETHERLANDS. FOR THE BENEFIT OF THE NAZI CONSPIRATORS HE ENSLAVED THESE COUNTRIES, MAKING THEM VASSALS OF THE NAZI REGIME.

I. Biographical Data.

a. Proof of positions held by the defendant Arthur Seyss-Inquart in the order set forth in the Indictment:

(1) Member of the NSDAP (Nazi Party) 13 March 1938 - 8 May 1945.

2910-PS, Certificate of Defendant, 10 November 1945, USA Exhibit 17.

(2) General in the SS, 15 March 1938 - 8 May 1945.

2910-PS, Certificate of defendant, 10 November 1945. USA Exhibit 17.

(3) State Councillor of Austria, May 1937 - 12 February 1938.

2910-PS Certificate of defendant 10 November 1945. USA Exhibit 17.

(4) Minister of Interior and Security of Austria, 16 February 1938 - 11 March 1938.

2910-PS, Certificate of defendant, 10 November 1945. USA Exhibit 17.

(5) Chancellor of Austria, 11 March 1938 - 15 March 1938.

2910-PS Certificate of defendant, 10 November 1945. USA Exhibit 17.

(6) Member of the Reichstag, April 1938 - 8 May 1945.

2910-PS, Certificate of defendant, 10 November 1945. USA Exhibit 17.

(7) Member of the Reich Cabinet, 1 May 1939 - 1945.

2910-PS, certificate of defendant, 10 November 1945. USA Exhibit 17.

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(8) ReichMinister without Portfolio, 1 May 1939 - September 1939.

2910-PS, Certificate of defendant, 10 November 1945. USA Exhibit 17.

(9) Chief of the Civil Administration of South Poland, early September 1939.

2910-PS, Certificate of defendant, 10 November 1945. USA Exhibit 17.

(10) Deputy Governor - General of the Polish Occupied Territory 12 October 1939 - 18 May 1940.

2910-PS. Certificate of defendant, 10 November 1945. USA Exhibit 17.

(11) Reich Commissar for Occupied Netherlands 18 May 1940 - 8 May 1945.

2910-PS, Certificate of defendant, 10 November 1945. USA Exhibit 17.

b. Proof of Positions held in addition to those set forth in the Indictment:

(1) Reich Governor of Austria, 15 March 1938 - 1 May 1939.

2910-PS, Certificate of defendant, 10 November 1945. USA Exhibit 17.

(2) President of the German Academy, Munich, 1943.

3457-PS (Berliner Boersen-Zeitung, 22 December 1943). Das Archiv, 1943-44, p 720.

c. Proof of Previous Occupations of the defendant Arthur Seyss-Inquart:

(1) Commissioned officer in a Tyrol-Kaiserjaeger Regiment of the Austrian Army in World War I, 1914 -1918.

(2) Lawyer in Vienna, Austria.

3425-PS, Voluntary signed statement of Seyss-Inquart dated 10 December 1945.

II. "THE DEFENDANT SEYSS-INQUART USED THE FOREGOING POSITIONS AND HIS PERSONAL INFLUENCE IN SUCH A MANNER THAT: HE PROMOTED THE SEIZURE AND CONSOLIDATION OF CONTROL OVER AUSTRIA BY THE NAZI CONSPIRATORS SET FORTH IN COUNT ONE OF THE INDICTMENT".

a. THE DEFENDANT ARTHUR SEYSS-INQUART WAS A MEMBER OF THE NAZI PARTY AND HELD THE RANK OF GENERAL IN THE SS.

(1) The defendant Seyss-Inquart admitted in writing that he

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became a member of the Nazi Party on 13 March 1938; that he was made a General in the SS on 15 March 1938 and held both membership and rank until 8 May 1945.

2910-PS, Certificate of defendant dated 10 November 1945.
U.S.A. Exhibit 17.

(2) The defendant Seyss-Inquart, in a letter to the defendant Goering, asserted that he had been a member of the Nazi Party since 1931. The following is an excerpt from that letter:

"Until July 1934, I conducted myself as a regular member of the Party. And if I had quietly in whatever form paid my membership dues, the first one according to a receipt, I paid in December 1931."

2219
~~2910~~-PS, Excerpt from a letter dated 14 July 1939 from Seyss-Inquart to Goering.

U.S.A. Exhibit 62.

(3) In a voluntary statement signed by the defendant, Seyss-Inquart, with the advice of his counsel, the defendant discussed his affiliation with the Nazi Party as follows:

"I supported also the National Socialist Party as long as it was legal, because it declared itself with particular determination in favor of the Anschluss. From 1932 onward I made financial contributions to this Party, but I discontinued financial support when it was declared illegal in 1934".

3425-PS, Voluntary statement signed by Seyss-Inquart with advice of Counsel on 10 December 1945, page 1.

(4) In contrast with the foregoing assertions of the defendant, Seyss-Inquart wrote a letter to Heinrich Himmler in which he confirmed the fact that he became a member of the Nazi Party in 1931 and also stated that he continued his membership in the Nazi Party even after it was declared illegal in Austria. The following is an excerpt from that letter:

"Concerning my membership to the Nazi Party, I want to state that I never was asked to enter the Nazi Party but I asked Dr. Kier in December 1931 to take care of my relation to the Party. At that time I saw the basis of the solution of the Austrian question only in the Party. I wrote this already in the year 1929 to Dr. Neubacher to adjust his hopes which he had put in the Austria-German Volksbund. After that, I paid my membership fees and, as I remember, direct to the Gau Wien. The payments were made

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even after the party was forbidden. Some time later, I got in direct touch with the Ortsgruppe in Dornbach. The membership fees were paid by my wife but the Blockwart couldn't possibly have any doubt that those payments were for my wife and myself since the amount of the fees, S 40 (40 Schillings) a month, was a sure indication of this fact and I was treated in every respect as a Party member. Besides that, I was, since 1932, a member of the Steirischen Heimatschutzes Kammerhofer. In this organization I made every effort to absorb the Steirische Heimatschutz in the Party and mainly on account of my efforts, von Habicht declared that the members of the Steirische Heimatschutz were members of the Party. That proves that I felt myself, in every respect, as a member of the Party and I was regarded as belonging to the Party and as I said before, already in December 1931."

3271-PS, Letter of Seyss Inquart to Himmler dated 19 August 1939.

b. THE DEFENDANT, ARTHUR SEYSS-INQUART, EVEN BEFORE HE BECAME A MEMBER OF THE NAZI PARTY, BELONGED TO AN ORGANIZATION CONCEIVED AND FOUNDED UPON PRINCIPLES WHICH LATER BECAME THOSE OF THE NAZI PARTY.

(1) The defendant Arthur Seyss-Inquart stated in writing that he had been a member of a secret organization known as the "German Brotherhood" (Deutsche Gemeinschaft"). This is evidenced by the following excerpts from a letter to Himmler:

"It must be known to you that at the time of the Black-Red Coalition, there existed an extremely secret organization under the name of "German Community." Here met all sorts of Nationalists and Catholic elements who, at least at that time, were anti-Semitic and anti-Marxists. Dr. Doelter, who was my office chief, was one of the leaders of this association and through him I came into this movement. Dolfuss was also active here. He was of my age and was a very active anti-Semitic. It is through success of the activities of this organization that the Black-Red Coalition was broken and the Marxists never came back in the government. After the establishment of National Socialism, this organization was dissolved."

3271-PS, Letter of Seyss-Inquart to Himmler dated 19 August 1939.

(2) The secret organization, "German Brotherhood", "Deutsche Gemeinschaft"), was organized to promote the anti-Semitic and anti-Free Mason doctrines later adopted by the Nazi Party. This fact is evidenced by the minutes of a meeting of this organization on 28 December 1918 and by its constitution and by-laws, a portion of which appear in the following quotation:

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"The purpose of this organization is the liberation of the German people from Jewish influences, and combat against Jewry with all available means. The organization is secret. Since a contact of the organization with the public can't be avoided, it has to be done under pretence of unsuspicious purposes and without showing the actual set-up."

New members of this organization were required to make a sworn statement, i.e.:-

"As a German man, I assure with my honor, as far as I know, there is no Jewish blood in my descendency. Furthermore I am not connected by marriage with a wife or other companion of Jewish descendency, and I never will have relation with one of those. I am not a Free Mason, I assure to be forever a good member of the Deutsche Gemeinschaft and I will always represent the interest of the German people against the Jewish people and I am willing to fight the Jewish people with all my power, any place and at any time. I promise to obey all orders and decrees of the leadership of the organization and to preserve complete secrecy about their institution, about the persons of the organization, and the events within it, as long as I live."

New members were also asked the question: "In case you will be accepted, are you willing to employ only Aryan physicians, attorneys, and businessmen?"

3400-PS Minutes of Meeting of Deutsche Gemeinschaft, 28 December, 1918, and Constitution and By-Laws thereof found in the personal files of Dr. Arthur Seyss-Inquart for the period of 1918 to 1943 at Schloss Hooch, near Flachau Kreis Bischofshofen, in the possession of the Goethe Institut Ausland Organization and moved from Munich to Schloss Hooch for safekeeping.

c. THE DEFENDANT SEYSS-INQUART, AFTER THE AUSTRIAN NAZI PARTY WAS DECLARED ILLEGAL IN JULY 1934, POSED AS A NON-MEMBER OF THE NAZI PARTY BUT CONTINUED TO SUPPORT IT IN ITS ACTIVITIES, PRINCIPLES, AND OBJECTIVES IN A SUBVERSIVE MANNER.

(1) The defendant Arthur Seyss-Inquart stated in writing that:

"Before the Anschluss, I worked for the legal, political activities of the Austrian Socialists under the conditions laid down in the Austrian Constitution. . . From 1932 onwards I made financial contributions to this party but I discontinued financial support when it was declared illegal in 1934. From July 1934 until the year 1936 I supported individual National Socialists as lawyer and in collaboration with the welfare work Langoth in Linz. From July 1936 onwards, I endeavored to help the National Socialists to regain their legal status and finally to participate in the Austrian Government .... I was sympathetic towards the efforts of the Austrian Nazi Party to gain political power and corresponding influence because they were in favour of the Anschluss.... On 10 March 1938 I suggested to Chancellor Schusschnigg, as a solution

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to the difficulties resulting from his plebiscite plan, that the National Socialists be appointed to the Cabinet, after I became in May 1937 State Councillor and then on 16-2-1938 Minister of Interior and Security."

3425-PS : Voluntary statement signed by Seyss-Inquart with advice of Counsel on 10 December 1945.

2. Although the defendant was an official in the Austrian Government, yet he rendered services, and physical and moral support to the illegal Austrian Nazi Party during those years, knowing that the radical element engaged in terroristic acts.

" During this time, particularly after the Party was forbidden in July of 1934, I know that the radical element of the Party was engaged in terroristic activities, such as the attacks on railroads, bridges, telephone communications, etc. I know that the governments of both Chancellors Dolfuss and Schuschnigg, although they held the same total German viewpoint in principle, were opposed to the Anschluss then because of the National Socialist regime in the Reich. I was sympathetic towards the efforts of the Austrian Nazi Party to gain political power and corresponding influence, because they were in favor of the Anschluss. On the day of the unsuccessful "putsch", 25 July 1934, I was at my home in Stannern near Iglau, Czechoslovakia. I learned later that the murder of Chancellor Dolfuss on that day was the outcome of a "putsch" plan, in which SS circles were mainly involved, to arrest the Chancellor and put in an Austrian government with National Socialist participation. Eight or ten days before this unsuccessful "putsch" Chancellor Dolfuss sent for me. We discussed the disturbances and troubled state of affairs created in Austria by the radical element of the Austrian National Socialists. I advised Chancellor Dolfuss to make an arrangement with Hitler because the Austrian National Socialists and even this radical element would obey Hitler's orders. I conjectured - later I found confirmation - that these terroristic activities had a certain support from the Reich. Chancellor Dolfuss told me he would think the matter over and made a tentative future appointment for a further discussion. I informed among others, also acquaintances, of this conversation whom I knew had influence among the Austrian National Socialists. About one week later Chancellor Dolfuss informed me that at the moment he had no time for further discussion."

3425-PS : Voluntary statement signed by Seyss-Inquart with advice of Counsel on 10 December 1945.

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d. THE DEFENDANT SEYSS-INQUART DERIVED GREAT PERSONAL BENEFITS AND POLITICAL POWER AS THE RESULT OF THE SUBVERSIVE MANIPULATIONS AND TERRORISTIC ACTIVITIES OF HIS FELLOW NAZIS AND FELLOW COLLABORATORS.

1. He was appointed State Councillor of Austria in May of 1937, and Minister of the Interior and Security of that country as the direct result of Nazi manipulations, which he has admitted in a voluntary statement in writing made with advice of Counsel.

> " My appointment as State Councillor was the result of an agreement between Austria and Germany on 11-7-1936. My appointment as Minister of the Interior and Security was one of the results of the conference between Chancellor Schuschnigg and Hitler at Berchtesgaden on 12-2-1938."

3425-PS : Voluntary statement signed by Seyss-Inquart with advice of Counsel on 10 December 1945.

2. Another result of the Berchtesgaden conference was that Austrian Nazis were thereafter allowed openly to demonstrate their conviction, an advantage which they exploited to the full.

> " The Austrian National Socialists must certainly have taken my appointment as Minister of Interior and Security as an indication of their right to activity. Still more, however, the outcome of the agreement of 12-2-1938, allowed them to demonstrate their convictions. This right they utilized in more and more widespread demonstrations."

3425-PS : Voluntary statement signed by Seyss-Inquart with advice of Counsel on 10 December 1945.

e. THE DEFENDANT SEYSS-INQUART USED HIS AFFILIATION WITH THE NAZIS TO PROMOTE THE ABSORPTION OF AUSTRIA INTO THE GREATER GERMAN REICH ACCORDING TO PLAN AS CONCEIVED BY HIS FELLOW NAZI CONSPIRATORS.

1. He had a continuous and constant interest in the union of Austria and Germany for twenty years, and during all that time worked, planned and collaborated with others until the union became an accomplished fact.

> "In 1918 I became interested in the Anschluss of Austria with Germany. From that year on I worked, planned, and collaborated with others of a like mind to bring about a union **********. It was

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my desire to effect this union of the two countries - in an evolutionary manner and by legal means. Among my Austrian collaborators were Dr. Neubacher, City Councillor Speiser, the University Professor Hugelmann, and Dr. Wilhelm Bauer, Professor Wettstein and others. Later, during the rise of National Socialism, Dr. Friedrich Rainer, Dr. Jury, Glaise-Horstenau, Major Klausner, Dr. Muehlmann, Globotschnigg, and others -----. After I became State Councillor, I discussed several times with von Papen, the German Ambassador, the possibilities of an understanding between the Austrian government and the Austrian National Socialists, respectively the Reich. We did not talk of the Anschluss as an actual program. However, we were both of the opinion that a successful understanding would bring about in the course of time the Anschluss by evolutionary means in some form. The last time I spoke to von Papen was in January 1938 in Garmisch where I met him by chance."

3425-PS: Voluntary statement signed by Seyss-Inquart with advice of Counsel on 10 December 1945.

2. The defendant Seyss-Inquart contributed his efforts to revive the Austrian Nazi Party after the unsuccessful "putsch" of July 25, 1934, and to provide relief for the families of arrested and condemned Nazis. He described these activities in the following words:

"The effect of the 'Putsch' was a complete catastrophe to the National Socialist Camp. Not merely the leaders, but party members were arrested in so far as they did not escape; the confiscation of their fortunes was announced; the revolt which led to military actions in Steiriermark, Karnten and Oberoesterreich did cost victims; the political management was seriously compromised by the Nazis and above all, a most sinister looking situation was created in regard to foreign politics. In any case, the idea of a union had suffered a severe setback. I was in agreement about the effect with Dr. Neubacher, and it was our desire to assist easing the tension. Following this situation I felt urged to take up politics beyond the question of the 'Anschluss'.---The former National delegate to the 'Langoth' in Linz was working with Rheintaller. Dr. Neubacher and myself contacted this circle and met there some other men whose names I have forgotten, but who later did not play a particular role. After some time, the lawyer applicant from Linz, Dr. Kaltenbrunner, joined this circle. He was said to be an SS man. The main activities consisted in organizing an institution to succor the needy families of those arrested and condemned Nazis. ----- As matters calmed down, the Austrian National Socialists collected themselves again into an illegal party, the organization was built up for better or worse according to the old schedule, those who returned from the Reich were considered to be more 'in the know' and authoritative. The institution of succor, 'Langoth', remained outside the party organization. But here were also men in the Nazi circles who considered an absolute dependence on the Reich as politically wrong and endeavored for an independent Austrian National Socialist Party. In effect, Dr. Rainer, from Karnten belonged to those, and by his influence the future Gauleiter Klausner who is now dead; also Globotschnigg was in it, though I doubt he was sincerely convinced, and also others. Dr. Neubacher took a keener interest in political affairs and entered into relationship with the proper Party circles".

3254-PS: Memorandum "The Austrian Question" by Seyss-Inquart, Pages 3, 4 and 5.

3. The defendant submitted his plans to Hitler, Hess and Goering for their approval, and contacted other German Nazis.

"After my appointment as State Councillor, Wilhelm Keppler, the German Secretary of State for Austrian affairs, arranged a visit for me with Hess and Goering. I explained my intentions and plans to them, namely, the attainment of the legal activity for the Austrian National Socialist, independent of the Reich Party. Hess expressed his interest and said to me among other things: he regretted that I was not one of the original "old fighters". I believe that at that time Goering had already established direct connections with the Austrian State Secretary, Guido Schmid. After my appointment as Minister of Interior and Security of Austria, I went to Berlin to visit Hitler. I arrived in Berlin on 17.2.1938 where I was met by Keppler who took me to Himmler. This visit was not anticipated in my program. Himmler wanted to talk over police matters, I informed him, however, that I was not conversant to speak about them. I did not follow the suggestions which he made. I greeted Hitler with raised hand- permissible after the agreement of 12.2--, advised him, however, immediately that as Austrian Minister, my responsibility lay with Austria. I explained to Hitler my plans, namely: I was to be the living guaranty for Dr. Schusschnigg of the evolutionary way. The Austrian National Socialists must only conduct their activities according to the Austrian Constitution and on those lines find their way to the Reich; they must not make any totalitarian claim nor conduct a cultural struggle. The leadership of the Austrian National Socialists must be independent of the Reich and remain responsible to Austria. I would have, as Minister of Security, to oppose any kind of illegal activity. Against this the Austrian National Socialist would be permitted full freedom of activity to work for the closest cooperation of Austria and Germany. Hitler agreed to my plans but expressed certain doubts whether Dr. Schuschnigg would be willing to go so far. During my conference with Hitler, Keppler and Ribbentrop waited in the ante-room of Hitler's office."

3425-PS: Voluntary statement signed by Seyss-Inquart with advice of Counsel on 10 December 1945.

4. Seyss-Inquart's fellow Nazi conspirators regarded his position as Councillor of State in the Austrian Government as most important to them, because he had a mandate from the German Nazis in power, which he was attempting to carry out. Because his negotiations with Chancellor Schuschnigg seemed to be running aground, Seyss-Inquart sent a report of that fact to Keppler by courier, stating that he felt compelled to return his mandate, and expressing a desire to discuss the matter before acting accordingly. Keppler immediately sought advice from the defendant Goering in a letter dated 6 January 1938. That same day Goering's secretary was instructed to telephone instructions to Keppler to do anything to avoid the resignations of Councillor of State Dr. Seyss-Inquart and State Minister Glaise von Horstenau. Keppler received this telephone message on 7 January 1938, and on 8 January 1938 wrote a letter to Seyss-Inquart informing this defendant about Goering's instructions and relaying a request from Goering not

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to give up the mandate under any circumstances without discussing the matter with Goering.

(a) 3473-PS: Letter from Keppler to Goering, and memorandum to Goering's secretary both dated 6 January 1938.

(b) 3397-PS: Letter from Keppler to Seyss-Inquart, dated 8 January 1938.

5. Despite his assertions, in the statements made by him since his arrest and indictment, to the effect that he desired a union of Austria and Germany in an evolutionary manner and by legal means, on other occasions he has made statements to the contrary. His letter to Goering is particularly illuminating on this point in which he said:

> "I told myself in July 1934 that we must fight this clerical regime on its own ground in order to give the Fuehrer a chance to use whatever method he desires. I told myself that this Austria was worth a mass. I have stuck to this attitude with an iron determination because I and my friends have had to fight against the whole political church, and Free Masonry, the Jewry, in short, against everything in Austria. The slightest weakness which we might have displayed would undoubtedly have led to our political annihilation; it would have deprived the Fuehrer of the means and tools to carry out his ingenious political solution for Austria as became evident in the days of March 1938. I have been fully conscious of the fact that I am following a path which is not comprehensible to the masses and also not to my party comrades. I have followed it calmly and would without hesitation follow it again because I am satisfied that at one point I could serve the Fuehrer as a tool in his work, even though my former attitude, even now, gives occasion to very worthy and honorable Party comrades to doubt my trustworthiness. I have never paid attention to such things because I am satisfied with the opinion which the Fuehrer and the men close to him have of me".

2219-PS: Excerpt from a letter dated 14 July 1939 from Seyss-Inquart to Goering.

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Another statement of the defendant, which throws some light on this point, is found in his letter to Himmler:

> "On November 8, 1938, the Fuehrer invited several political leaders for supper. The Fuehrer asked me to be next to him. We discussed the situation in Ostmark. I told him that in accordance with his order, we started to dissolve the competence of the Austrian government by giving the powers partly to the Gauen and partly to the central leaders. But there still would remain certain affairs which would be common for all Gauen".

3271-PS: Excerpt of letter of Seyss-Inquart to Himmler dated 19 August 1939.

Furthermore, by his voluntary statement, made with advice of counsel, the defendant made the following statement:

> "I was happy that the Anschluss of Austria ~~since~~ with the German Reich had come at last after so many vain endeavors since 1918 because I was in favor of the Anschluss of Austria with the Reich under any conditions. I was aware at least to a certain extent

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of the harshness of the National Socialist regime, but I was of the opinion that these two German countries belonged together and that the German people should solve their own internal affairs and difficulties. I was convinced that the harshness of the National Socialist regime chiefly because of its achievement of the National aim - cancellation of discriminatory peace treaties and achievement of the right of self-determination - would in time be surmounted."

3425-PS: Excerpt from Voluntary Statement signed by Seyss-Inquart with advice of Counsel on 10 December 1945.

6. The subversive manipulations, maneuvers, and machinations of the Austrian Nazis to bring about the absorption of Austria by the Greater German Reich was described in great detail by Dr. Friedrich Rainer, a leading Austrian Nazi and a collaborator of the defendant who became one of Hitler's gauleiters, in a report prepared by him and forwarded to Buerckel. A copy of this report was later sent to the defendant by Dr. Rainer accompanied by a letter of transmittal. In substance, the report related how the Nazi party lost a parliamentary battle in 1933, continued its efforts to force admission of their representatives into the Austrian government, and finally flower into the unsuccessful "Putsch" of July 1934, which, in effect, destroyed the Nazi organization. Following the unsuccessful "Putsch", Hitler liquidated the first stage of the battle, instructed Franz von Papen to restore normal relationship between the two countries and a new method of political penetration was adopted. The result was that Hinterleitner, an Austrian Nazi, contacted the lawyer Seyss-Inquart, who had connection with Dr. Wachter, which originated from Seyss-Inquart's support of the July uprising. On the other side, Seyss-Inquart had a good position in the legal field and especially well established relations with Christian Social politicians. Dr. Seyss-Inquart came from the ranks of the "Styrian Heimatschutz" and became a Nazi party member when the entire "Styrian Heimatschutz" was incorporated in the [illegible]. The reason for contacting Seyss-Inquart, the defendant, appears in the following excerpt from the covering letter which accompanied Dr. Rainer's report to Reich Commissar Gauleiter Josef Buerckel dated 6 July 1939.

"I think the main reason for the fact that the person of Dr. Seyss-Inquart seemed to Hitler and to public opinion to have stepped in the limelight in those March days, was that no position existed in the party from which one might have

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presented oneself to the public, and that there was no man who had the guts to let himself be presented. The actual reason was that the party leadership had to remain secret during the whole illegal fight, secret even from the Reich German public."

812-PS: Report of Gauleiter Rainer to Reich Commissar Gauleiter Buerkel, 6 July 1939. Report of events in the NSDAP of Austria from 1933 to 11 March 1938.

U. S. A. Exhibit 61.

Thus it is clear why the defendant Seyss-Inquart was surreptitiously a member of the Austrian Nazi Party after it was declared illegal in 1934. Dr. Rainer goes on to report that full recognition of the party leadership was given by Seyss-Inquart and also that the defendant was in permanent contact with Captain Leopold, who became a member of the staff of Hess. After Hinterleitner was arrested, Dr. Rainer became his successor as leader of the Austrian Nazi Party, and, on 16 July 1936, Dr. Rainer and Globocnik visited Hitler at Obersalzburg, where they received a clear explanation of the situation and the wishes of the Fuehrer. Subsequently, on 17 July 1936, all illegal Gauleiters met in Anif near Salzburg where they received a complete report from Dr. Rainer on the statemenent of the Fuehrer and his political instructions for carrying out the fight. After the agreement between Germany and Austria on 11 July 1936, Hitler appointed Wilhelm Keppler as Chief of a mixed commission which was to supervise the execution of the agreement and at the same time Keppler was given full authority for the Nazi Party in Austria.

812-PS: Report of Gauleiter Rainer, Ibid.

U. S. A. Exhibit 61.

f. THE ACTIVITIES OF THE DEFENDANT SEYSS-INQUART AND HIS FELLOW NAZI CONSPIRATORS AND COLLABORATORS FORCED THE THEN AUSTRIAN GOVERNMENT INTO A CRITICAL SITUATION AND A STRUGGLE FOR SURVIVAL.

(1) As the result of all this planning, and maneuvers, and disturbances created by the Nazis in Austria, Von Schuschnigg, etc. -

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Chancellor of Austria, accompanied by his State Secretary, Guido Schmidt, conferred with Hitler at Berchtesgaden on 12 February 1938. Dr. Muehlmann was also present but not as a member of the Schuschnigg delegation. There, possibilities for military action by Germany against Austria were demonstrated to the Chancellor. The ultimate result was that Chancellor Schuschnigg had no choice but to accept the demands of Hitler that the Austrian Nazi Party be legalized, amnesty be granted to Austrian Nazis, already convicted for illegal activities, and the defendant, Seyss-Inquart, was to be appointed Minister of the Interior and Security in the Austrian cabinet.

(a) 2995-PS Affidavit of Kurt von Schuschnigg, dated 19 November 1945.

(b) 3254-PS Memorandum "The Austrian Question" by Seyss-Inquart, page 13.

(c) 3425-PS Voluntary Statement of Seyss-Inquart with advice of Counsel, 10 December 1945.

(d) 2469-PS Official German and Austrian Communique concerning the equal rights of Austrian National Socialists in Austria, 18 February 1938, Dokumente der Deutschen Politik, VI, I, page 128 No. 21D.

(e) 2464-PS Official Austrian Communique of the reorganization of the Austrian Cabinet and the General Political Amnesty dated 16 February 1938, Dokumente der Deutschen Politik, VI, 1, Page 125, No. 21D.

(2) A few days after the Berchtesgaden meeting of Hitler and von Schuschnigg, and immediately after his appointment as Minister of the Interior and Security of Austria, Seyss-Inquart went to Berlin for a conference with Hitler. Upon arrival in Berlin he was met by

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Keppler, Hitler's special delegate on Austrian affairs, who took him to Himmler. After a short conference with Himmler, the defendant was conducted to Hitler to whom he gave the Nazi salute and with whom he had a conference lasting two hours and ten minutes. Foreign Minister von Ribbentrop and Keppler waited in the antechamber during the conference. The defendant first offered Hitler an explanation for greeting him with the Hitler salute, by saying: "I consider him as the Fuehrer of the German people who led us out of the discriminations of the peace treaties." During the conference, he rendered a report to Hitler concerning the Austrian situation since June of 1934 and presented his own program for Hitler's approval. Hitler expressed his approval of the plan but told the defendant that he doubted whether Chancellor Schuschnigg would be willing to go so far. Obviously, this doubt of Hitler concerning Chancellor Schuschnigg's approval of the defendant's plan referred solely to the defendant's proposal to allow Austrian Nazis to "conduct their activities according to the Austrian Constitution and on those lines find their way to the Reich," because all other portions of his plan had previously been adopted as a result of the Berchtesgaden Agreement.

(a) 3254-PS, Memorandum "The Austrian Question", by Seyss-Inquart, pages 23-24.

(b) 3425-PS, Voluntary Statement in writing by Seyss-Inquart, with advice of Counsel dated 10 December 1945, page 3.

(c) 2484-PS, Official German Communique of the visit of Austrian Minister Seyss-Inquart to Hitler, Berlin 17 February 1938, Dokumente der Deutschen Politik, VI, 1, page 128, No. 280.

(3) The defendant asserted that, upon his return to Vienna after his conference with Hitler, he reported to Chancellor Schuschnigg the content of his discussion and urged the Chancellor to make a decision about the Austrian National Socialist question.

Then he attended rallies of the Austrian National Socialists held in various places in Austria to inform them of them of the content of his conference with Hitler. Two of the principal meetings were held at Graz and Linz.

(a) 3425-PS. Voluntary Statement by Seyss-Inquart with advice of Counsel dated 10 December 1945.

(b) 3254-PS. Memorandum "The Austrian Question", by Seyss-Inquart, page 25.

Considerable doubt is cast upon the truth of the defendant's assertions, that he reported the contents of his conference with Hitler to Chancellor Schuschnigg and in public meetings of the Austrian Nazis, by a statement contained in a letter written by Seyss-Inquart to Himmler. The statement is as follows:

> "I had a conversation of overtwo hours with the Fuehrer on February 17, 1938, in which I explained to him my point of view. I would only be able to make statements about the content of this conversation if the Fuehrer would grant me permission. I left this discussion as a very sincere man and with a feeling of great happiness to be of help to the Fuehrer."

3271-PS. Extract of letter from Seyss-Inquart to Himmler dated 19 August 1939.

g. FINALLY CHANCELLOR SCHUSCHNIGG DETERMINED TO GO BEFORE THE PEOPLE FOR A DECISION ON THE QUESTION OF AUSTRIAN INDEPENDENCE.

(1) Chancellor Schuschnigg planned to hold a plebiscite on that precise question and fixed 13 March 1938 as a date upon which the plebiscite would be held. The Chancellor took the defendant Seyss-Inquart into his confidence and discussed the matter of the plebiscite with him. The Chancellor requested Seyss-Inquart to keep the matter a secret until noon of the next day and the defendant promised to do so. Thereafter, the defendant prepared a letter to Schuschnigg objecting to the plebiscite on constitutional grounds and alleging that the manner in which the ~~manner in which the~~

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plebiscite was to be held would not allow the Austrians to express their own desires. He admits that a copy of his letter was delivered to Hitler in Berlin By Globotschnigg.

(a) 3254-PS, Memorandum "The Austrian Question", by Seyss-Inquart, page 28.

(b) 3425-PS, Voluntary Statement by Seyss-Inquart with advice of Counsel dated 10 December 1945.

(2) On 9 March 1938, a meeting of the Austrian Nazis was held because they learned, through an illegal information service, that a plebiscite was to be held. Dr. Rainer describes this meeting in the following language:

> "The 'Landesleitung' received word about the planned plebiscite through illegal information services on 9 March 1938 at 10 a.m. At the session, which was called immediately afterwards, Seyss-Inquart explained that he had known about this information only a few hours, but that he could not talk about it because he had given his word to keep silent on this subject. But during the talks he made us understand that the illegal information we received was based on truth, and that in view of the new situation, he had been cooperating with the 'Landesleitung' from the very first moment. Klausner, Jury, Rainer, Globotschnigg, and Seyss-Inquart were present at the first talks which were held at 10 a.m. There it was decided that first, the Fuehrer had to be informed immediately; secondly, the opportunity for the Fuehrer to intervene must be given to him by way of an official declaration made by Minister Seyss-Inquart to Schuschnigg; and thirdly, Seyss-Inquart must negotiate with the government until clear instructions and orders were received from the Fuehrer. Seyss-Inquart and Rainer together composed a letter to Schuschnigg, and only one copy of it was brought to the Fuehrer by Globocnik, who flew to him on the afternoon of 9 March 1938."

812-PS, Report of Gauleiter Rainer to Reich Commissar Gauleiter Buerckel, 6 July 1939. Report of events in NSDAP of Austria from 1933 to 11 March 1938.

U.S.A. Exhibit 61.

The defendant himself admits that he attended this meeting which was held at the Regina Hotel, Vienna.

(a) 3425-PS, Voluntary Statement by Seyss-Inquart with advice of Counsel dated 10 December 1945.

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(b) 3254-PS, Memorandum "The Austrian Question" by Seyss-Inquart, page 30.

The defendant was informed at this meeting that he would receive a letter from Hitler by messenger the next morning.

(a) 3425-PS, Voluntary Statement by Seyss-Inquart with advice of Counsel dated 10 December 1945.

(b) 3254-PS, Memorandum "The Austrian Question" by Seyss-Inquart, page 30.

(3) Early on the morning of 11 March 1938, Seyss-Inquart received Hitler's letter. He describes it as having contained several erroneous statements and containing a demand that a decision should be arrived at before noon; that in case of rejection the Reich government would denounce the agreement of 12 February 1938 and military action must be understood. According to the defendant, Hitler also gave expression to his belief that there would be disturbances in Austria if Chancellor Schuschnigg would not relent and that the Reich would come to the help of Austria if Austria demanded so. Glaise-Horstenau arrived by plane in Vienna early that same morning with the information that Berlin was greatly excited and that military steps were in preparation.

(a) 3254-PS, Memorandum "The Austrian Question" by Seyss-Inquart, page 31.

(b) 3425-PS, Voluntary statement by Seyss-Inquart with advice of Counsel, 10 December 1945.

h. The defendant, Seyss-Inquart, then proceeded to carry out Hitler's orders and to fulfill the plans made by himself and his fellow Nazi conspirators.

(1) Dr. Rainer in his report to Reich Commissar Gauleiter Josef Buerckel, and in his covering letter dated 6 July 1939, relates his version of the sequence of events during this period and describes the precise role of the defendant, Seyss-Inquart, as he viewed it. He complained about the fact that Hitler and the general public seemed to give the defendant all of the credit for the annexation of Austria by Germany. The following quotations from this letter and report are significant:

> "Soon after taking over in Austria, Klausner, Globocnik, and I flew to Berlin to report to Hitler's deputy, Hess, about the events which lead to our taking over the government. We did this because we had the impression that the general opinion, perhaps also Hitler's own, was that the liberation depended more on Austrian matters of state rather than the Party. To be more exact, Hitler especially mentioned Dr. Seyss-Inquart alone; and public opinion gave him alone credit for the change and thus believed him to have played the sole leading role."

Dr. Rainer then goes on to describe just what happened in those critical days, and outlined the final instructions given by him for Friday 11 March 1938 explaining that three (3) situations might develop within the following days:-

> "1st. Case: The plebiscite will not be held. In this case, a great demonstration must be held.
>
> 2nd Case: Schuschnigg will resign. In this case, a demonstration was ordered in taking over the government power.
>
> 3rd Case: Schuschnigg will take up the fight. In this case, all party leaders were ordered to act upon their own initiative, using all means to capture the position of power.

Dr. Seyss-Inquart took part in these talks with the Gauleiters.

On Friday, 11 March, the Minister Glaise-Horstenau arrived in Vienna after a visit with the Fuehrer. After talks with Seyss-Inquart he went to see the chancellor. At 11.30 a.m. the "Landesleitung" had a meeting at which Klausner, Rainer, Globocnik, Jury, Seyss-Inquart, Glaise-Horstenau, Fishboeck and Muehlmann participated. Dr. Seyss-Inquart reported on his talks with Dr. Schuschnigg which had ended in a rejection of the proposal of the two ministers.

In regard to Rainer's proposal, von Klausner ordered that the government

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be presented with an ultimatum, expiring at 1400 hours, signed by legal political, "Front" men, including both ministers and also State Councillors Fishboeck and Jury, for the establishment of a voting date in three weeks and a free and secret ballot in accordance with the constitution.

On the basis of written evidence which Glaise-Horstenau had brought with him a leaflet, to be printed in millions of copies, and a telegram to the Fuehrer calling for help, were prepared.

Klausner placed the leadership of the final political actions in the hands of Rainer and Globocnik. Schuschnigg called a session of all ministers for 2.00 p.m. Rainer agreed with Seyss-Inquart that Rainer would send the telegram to the Fuehrer and the statement to the population at 3:00 p.m. and at the same time he would start all necessary actions to take over power unless he received news from the session of the ministers' council before that time. During this time all measures had been prepared. At 2:30 Seyss-Inquart 'phoned Rainer and informed him that Schuschnigg had been unable to take the pressure and had recalled the plebiscite but that he had refused to call a new plebiscite and had ordered the strongest police measures for maintaining order. Rainer asked whether the two ministers had resigned, and Seyss-Inquart answered: "No". Rainer informed the "Reichskanzlie" through the German Embassy, and received an answer from Goering through the same channels that the Fuehrer will not consent to partial solutions and that Schuschnigg must resign. Seyss-Inquart was informed of this by Globocnik and Mühlmann; talks were had between Seyss-Inquart and Schuschnigg: Schuschnigg resigned. Seyss-Inquart asked Rainer what measures the party wished taken. Rainer's answer: Reestablishment of the government by Seyss-Inquart, legalization of the party, and calling up of the SS and SA as auxiliaries to the police force. Seyss-Inquart promised to have these measures carried out, but very soon the announcement followed that everything might be threatened by the resistance of Miklas. Meanwhile word arrived from the German Embassy that the Fuehrer expected the establishment of a government under Seyss-Inquart with a national majority, the legalization of the party, and permission for the legion to return, all within the specified time of 7:30 p.m; otherwise, German troops would cross the border at 8:00 p.m. At 5:00 p.m. Rainer and Globocnik, accompanied by Muehlmann, went to the Chancellor's office to carry out this errand.

Due to the cooperation of the above-mentioned people with group leader Keppler and other officials of the Reich and due to the activities of other contact-men in Austria, it was possible to obtain the appointment of Seyss-Inquart as "Staatsrat" (councillor of State) in July 1937. Due to the same facts, the Chancellor Dr. Schuschnigg was forced to take a new so-called "satisfactory action". Through all this a new and stronger political position was won in the Austrian system. The National-Socialist Party became acceptable again in the political field and became a partner with whom one had to negotiate, even when it was not officially incorporated into internal Austrian political developments. This complicated political maneuver, accompanied by the steadily increasing pressure from the Reich, led to the talks between the Fuehrer and Schuschnigg at the Obersalzberg. Here Gruppen-fuehrer Keppler presented the concrete political demands of the fighting underground movement, which he estimated according to his personal experiences and the information he received. The results of these talks were the right of a free acknowledgment of the National Socialist movement on the one hand and the recognition of an independent Austrian state on the other hand, as well as the appointment of Seyss-Inquart as Minister of Interior and Public Safety, as a person who will guarantee to

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both sides the proper carrying out of the agreements. In this way Seyss-Inquart occupied the key position and was in the center of all obvious political actions. A legal base in the government was won for the party. This resulted in a paralysis of the "system apparates" (Schuschnigg government) at a time when a revolution needed to be carried out. Through this, the basis for a new attack on the Schuschnigg government was won.

Situation: Miklas negotiated with Ender for the creation of a government which included, blacks, reds and National Socialists, and proposed the post of Vice-Chancellor to Seyss-Inquart. The latter rejected it and told Rainer that he was not able to negotiate by himself because he was personally involved, and therefore a weak and unpleasant political situation might result. Rainer negotiated with Zernette. Director of the Cabinet Huber, Guido Schmid, Glaise-Horstenau, Legation Councillor Stein, Military Attache General Muffe, and the "Gruppenfuehrer" Keppler, who had arrived in the meantime, were also negotiating. At 7:00 Seyss-Inquart entered the negotiations again. Situation at 7.30 p.m: Stubborn refusal of Miklas to appoint Seyss-Inquart as Chancellor; appeal to the world in case of a German invasion.

Gruppenfuehrer Keppler explained that the Fuehrer did not yet have an urgent reason for the invasion. This reason must first be created. The situation in Vienna and in the country is most dangerous. It is feared that street fighting will break out any moment because Rainer ordered the entire party to demonstrate at 3 o'clock. Rainer proposed storming and seizing the government palace in order to force the reconstruction of the government. The proposal was rejected by Keppler but was carried out by Rainer after he discussed it with Globocnik. After 8:00 p.m. the SA and SS marched in and occupied the government buildings and all important positions in the city of Vienna. At 8:30 p.m. Rainer, with the approval of Klausner, ordered all Gauleiters of Austria to take over power in all eight "gaus" of Austria, with the help of the SS and SA and with instructions that all government representatives who try to resist should be told that this action was taken on order of Chancellor Seyss-Inquart.

With this, the revolution broke out, and this resulted in the complete occupation of Austria within three hours and the taking over of all important posts by the party ****

The seizure of power was the work of the party supported by the Fuehrer's threat of invasion and the legal standing of Seyss-Inquart in the government. The national result in the form of the taking over of the government by Seyss-Inquart was due to the actual seizure of power by the party on one hand, and the political efficiency of Dr. Seyss-Inquart in his territory on the other; but both factors may be considered only in the relation to the Fuehrer's decision on 9 March 1938 to solve the Austrian problem under any circumstances and the orders consequently issued by the Fuehrer."

812-PS: Report of Gauleiter Rainer to Reich Commissar Gauleiter. Josef Buerckel, 6 July 1939. Report of events in the NSDAP of Austria from 1933 - 11 March 1938.

U.S.A. Exhibit 61.

(2) The defendant's own story of the events on 11 March 1938 is not fundamentally different, although he does show a marked tendency to minimize his role, in the planning, precipitating and accomplishment of the annexation of Austria by Germany, in documents signed by him since his arrest and indictment:

> "At 10 o'clock in the morning Glaise-Horstenau and I went to the Bundes Chancellery and conferred for about two hours with Dr. Schuschnigg. We told him of all that we knew, particularly about the possibility of disturbances and preparations by the Reich. The Chancellor said that he would give his decision by 1400 hours. While I was with Glaise-Horstenau and Dr. Schuschnigg, I was repeatedly called to the telephone to speak to Goering. He informed me, (the demands of the Reich steadily increasing) that the agreement of 12- 2 had been cancelled, and demanded Dr. Schuschnigg's resignation and my appointment as Chancellor. I delivered this information verbally to Dr. Schuschnigg and withdrew from the conference.
>
> In the meantime Keppler arrived from Berlin and had a conference in the Bundes Chancellery, I believe also with President Miklas. The latter refused to concede to the demands and sought to find various other solutions. When Keppler arrived from Berlin he showed me the contents of a telegram which I, as leader of the provisional Austrian Government, was to send to Hitler and in which I was to request sending of German troops to Austria to put down disorders. I refused as I did not want to establish myself as head of a provisional government, and there were no disorders in Austria. Keppler repeatedly urged me about the telegram. Around 6 p.m. I told him that he knew my standpoint and should do what he wished with Berlin. Keppler, as I have been able to confirm from records available, understood my answer and did not send off the telegram at that time. Around 7:30 p.m. a frontier police post announced that German troops were crossing the frontier. Thereupon Dr. Schuschnigg gave his well known farewell speech over the radio. Upon requests from various sides I followed with a speech over the radio, stating that I was still functioning as Minister of Interior and Security, requesting preservation of peace and order, and gave directions that no resistance should be offered the German troops.
>
> As I am able to gather from the records available, I was again requested about 10 p.m. to give my sanction to another somewhat altered telegram, about which I informed President Miklas and Dr. Schuschnigg. Finally President Miklas appointed me Chancellor and a little while later he approved of my proposed ministers."
>
> 3425-PS: Voluntary statement signed by Seyss-Inquart with advice of Counsel on 10 December 1945.

However, the defendant was guilty of undue modesty in his statements made since his arrest and indictment. His letter to Himmler indicates how very active he was on 11 March 1938, and reveals that he was not satisfied

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with making demands upon Chancellor Schuschnigg, but also handed an ultimatum to President Miklas of Austria:

> "It is only possible that Buerckels made a statement that in the critical hours it was hard to find me. After I had handed an ultimatum to Miklas which was respited until 5:45 p.m. I took a recess of about a half hour to catch some fresh air. I conceded that I was, in a way, exhausted from the things which happened just a few hours before that and I tried to find recreation in the fresh air. Besides that I planned to take a look at the situation on the streets. Furthermore, I wanted to make a phone call to Berlin, not from the Chancellery, but from some other place. Phone calls from the Chancellery were always tapped whereas they were only sometimes tapped from other places. I was sure they didn't need me until 5:30 p.m., because the men of the old system would not make a decision a second earlier than they had to."

3271-PS: Excerpt from a letter of Seyss-Inquart to Himmler, dated 19 August 1939.

3. A stenographic transcript of defendant Goering's telephone conversation with Seyss-Inquart confirms the fact that the defendant Seyss-Inquart was ordered to demand Chancellor Schuschnigg's resignation and the appointment of himself as Chancellor.

2949-PS: Part A. Transcript of telephone calls from Air Ministry (Goering) 11 - 14 March, 1938.

U. S. A. Exhibit 76.

This stenographic record of Goering's conversations also revealed the fact that the defendant, Seyss-Inquart, had an agent keep in contact with the defendant Goering during the negotiations with Chancellor Schuschnigg. Seyss-Inquart was given an order by the defendant Goering through this agent to report by 7:30 p.m., 11 March 1938. Seyss-Inquart was to report that he had formed a new government and he was informed that the foreign political aspect would be handled exclusively by Germany and that Hitler would talk with him about this matter at a future date.

2949-PS: Part C. Transcript of telephone calls from Air Ministry (Goering) 11 - 14 March 1938.

In addition the stenographic transcript of these telephone conversations show that the selection of individual members of the cabinet of the new government to be established by the defendant was to be made by the Nazi conspirators in Berlin.

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2949-PS: Parts C and D. Transcript of telephone calls from Air Ministry (Goering) 11 - 14 March, 1938.

At 1726 hours on the night of 11 March 1938, the defendant Seyss-Inquart reported to the defendant Goering by telephone as ordered. The defendant reported that the Federal President Miklas had accepted the resignation of Chancellor Schuschnigg but wanted to appoint a man like Ender to the Chancellorship. The defendant further reported that he had suggested to the Federal President that the Federal Chancellorship be entrusted to him - Seyss-Inquart - and further reported that "We have ordered the SA and the SS to take over police duties". Thereupon the defendant Goering ordered the defendant Seyss-Inquart to go with Lt. Gen. Muff to President Miklas and inform the President that if the demands were not met immediately German troops, already advancing to the frontier, would invade Austria that night and Austria would cease to exist. An audience with the President was to be demanded. The invasion would be stopped only if President Miklas entrusted Seyss-Inquart with the Federal Chancellorship. Seyss-Inquart was also instructed to call out the National Socialists of Austria all over the country, because Austrian Nazis should even then be in the streets. Seyss-Inquart was to again report at 7:30 p.m.

2949-PS: Part E. Transcript of telephone calls from Air Ministry, 11 - 14 March 1938.

4. The telegram, already prepared, asking Hitler to send German troops into Austria, over the defendant Seyss-Inquart's signature, was transmitted as ordered and agreed upon.

2463-PS: Dokumente der Deutschen Politik, VI, 1, p. 134, No. 23 b.

5. Even before the defendant Seyss-Inquart received his appointment as Federal Chancellor of Austria he dispatched a telegram using that title. August Eigruber gave evidence of that fact in an Affidavit, a quotation from which follows:

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"On the evening of 11 March, 1938 at between 8 and 9 o'clock p.m. he received two telegrams; one of which came from Dr. Seyss-Inquart, as Bundes Chancellor of Austria, and the other from one Dr. Rainer; that the telegram from Dr. Seyss-Inquart appointed the affiant as temporary Landeshauptmann in Upper Austria; and that the telegram from Dr. Rainer appointed the affiant temporary leader of the National Socialist Party in Upper Austria."

2909-PS: Affidavit of August Eigruber, dated 9 November 1945.

6. Schuschnigg presented his resignation, which was accepted by President Miklas. The appointment of the defendant Seyss-Inquart as Chancellor came late on the evening of 11 March 1938. The radio announcement of the appointment of the defendant was made at 11:15 p.m. o'clock.

2465-PS: Dokumente der Deutschen Politik. VI, 1, p. 137 25 a. Announcement of the appointment of Seyss-Inquart as Federal Chancellor.

i. Having infiltrated into the Austrian Government of Chancellor Schuschnigg according to plan, the defendant Seyss-Inquart lost no time in exploiting his opportunities to carry out the plan to its ultimate conclusion, i.e. Annexation of Austria by Germany.

1. The very first act of the defendant Seyss-Inquart as the new Chancellor of Austria was to hold a telephone conversation with Hitler early in the morning of 12 March 1938. His own words describing the substance of this telephone conversation follows:

"During the morning of 12 March I had a telephone conversation with Hitler in which I suggested that while German troops were entering Austria, Austrian troops as a symbol should march into the Reich. Hitler agreed to this suggestion and we agreed to meet in Linz, Upper Austria, later on that same day."

3425-PS: Voluntary statement signed by Seyss-Inquart with advice of counsel on 10 December, 1945.

2. Thereafter on 12 March 1938 Seyss-Inquart greeted Hitler on the balcony of the City Hall of Linz, Upper Austria, and in his speech announced Article 88 of the Treaty of St. Germain was no longer operative. Austria was bound by Article 88, which provided that "the independence of Austria is inalienable otherwise than with the consent of the Council of the League of Nations".

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"I then flew to Linz with Himmler, who had arrived in Vienna from Berlin. I greeted Hitler on the balcony of the City Hall, and said that Article 88 of the Treaty of St. Germain was now inoperative."

(a) 3425-PS: Voluntary statement signed by Seyss-Inquart with advice of counsel on 10 December 1945.

(b) L-231: Telegram No. 75 from American Legation in Vienna to U.S. Secretary of State, 13 March 1938.

In his memorandum entitled "The Austrian Question" the defendant describes his meeting with Hitler as follows:

"In the afternoon, I flew with Himmler to Linz and drove then to meet Hitler. Hitler entered Linz in the evening. I never saw such an enthusiasm. The welcome was spontaneous and of no precedence. In my (welcome) speech I declared that Article 88 of the St. Germain Treaty was no longer binding."

(a) 3254-PS: Memorandum "The Austrian Question" by Seyss-Inquart. p. 38.

(b) 2485-PS: Address by Federal Chancellor Seyss-Inquart from balcony of City Hall at Linz. 12 March 1938, Documents der Deutschen Politik. VI, k, p.144. No. 28a.

3. The defendant then drove back to Vienna on the morning of 13 March, 1938. His Secretary of State for Security begged that he be allowed to resign, a decision he reached as a result of a conversation with Himmler, which had caused him to fear for his own personal welfare. The defendant then nominated the defendant Kaltenbrunner for State Secretary for Security and the nomination was accepted by President Miklas. About noon State Under Secretary Stuckart of the German Reich Ministry of the Interior brought a proposal for a reannexation act uniting Austria to Germany, and Hitler's wish for prompt execution of it. The defendant then called a meeting of his Council of Ministers and on his proposal the council adopted the act.

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3254-PS: Memorandum "The Austrian Question" by Seyss-Inquart. pp. 38 and 39.

4. The defendant, realizing that if the president of Austria resigned his office then he, the defendant, would be the successor, went to President Miklas with the information about the action of the Council of Ministers. The defendant describes this meeting with President Miklas as follows:

> "In the case where the Bund President would, for any reason, either have resigned his functions or be, for some time, impeded in fulfilling them, his prerogatives were to go over to the Bund Chancellor. I went to the Bund President with Dr. Wolff. The President told me that he did not know whether this development would be of welfare to the Austrian Nation, but that he did not wish to interfere and preferred to resign his functions, so that all rights would come into my hands, according to the Constitution. The possibility of my dismissal or resignation were only slightly mentioned and recognized as inopportune in the prevailing situation."

3254-PS: Memorandum "The Austrian Question" by Seyss-Inquart pp. 39, 40.

5. President Miklas then resigned and the defendant Seyss-Inquart succeeded to all the rights, privileges and prerogatives of that office.

2466-PS: Official Communique of the resignation of President Miklas of Austria, 13 March 1938. Dokumente der Deutschen Politik VI, 1, p. 147, No. 30 b.

6. Thereafter the defendant signed the Act uniting Austria with Germany and hurried back to Linz and reported this news to Hitler:

> "Then there were some letters exchanged between the Bund President and myself, confirming our conversation and his retirement. Thereafter I drove to Linz, where I arrived around mid-night and reported to the Fuehrer the accomplishment

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of the Anschluss Law. Hitler was very much impressed by it; for a while he remained quiet, then tears dropped from his eyes down his cheeks. He said then that he was especially happy because his Motherland had achieved her annexation to the Reich without any shedding of blood."

3254-PS: Memorandum "The Austrian Question" by Seyss-Inquart. pp 40 - 41.

7. On 14 March 1938 Hitler entered Vienna. On 15 March 1938 there was a public demonstration in Vienna and Hitler introduced the defendant Seyss-Inquart as "Reich Statthalter for Austria". Hitler then put the defendant in charge of the Civil Administration of Austria, while political matters were assigned to Gauleiter Josef Buerckel, who shortly thereafter was made Reich Commissar for the Anschluss.

3425-PS: Voluntary statement signed by Seyss-Inquart with advice of Counsel on 10 December 1945.

j. DESPITE THE MODESTY OF THE DEFENDANT SEYSS-INQUART SINCE HIS ARREST AND INDICTMENT, HIS FELLOW-NAZI CONSPIRATORS RECOGNIZED THE IMPORTANCE OF THE PART HE PLAYED IN THE ANNEXATION OF AUSTRIA BY GERMANY AND ACKNOWLEDGED THE FACT THAT HE WAS A KEY MAN IN BUILDING THE GREATER GERMAN REICH.

1. The Defendant Goering made a speech in Vienna on 26 March 1938 in which he said:

"At this moment (announcement of the plebiscite in Austria) it has been established that now the decision really came. A complete unanimity between the Fuehrer and the N.S. confidants inside of Austria existed. According to their opinion also the hour of action had come, but they thought they could not use any more democratic methods in negotiations and they took the law of action in their own strong hands and forced the others to retreat. If the N.S. rising succeeded so quickly and thoroughly without bloodshed, it is first of all due to the intelligent and decisive firmness of the present Reichsstatthalter Seyss-Inquart and his confidants. But this too proved the correctness of the previous continued politics because if our confidants had not been in the government, this whole course of events would not have been possible."

(Emphasis Supplied)

3270-PS: Doukmente der Deutschen Politik, VI, 1, p.183.

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2. According to Dr. Rainer, Hitler and the general public gave the defendant Seyss-Inquart credit for playing the sole leading role in the annexation of Austria by Germany. This is evidenced by the covering letter written by Dr. Rainer, dated 6 July 1939, to Reich Commissar Gauleiter Josef Buerckel in which he said:

> "We had the impression that the general opinion, perhaps also Hitler's own, was that the liberation depended more upon Austrian matters of state rather than the Party. To be more exact, Hitler especially mentioned Seyss-Inquart alone; and public opinion gave him alone credit for the change and thus believed him to have played the sole leading role."

In his report to Reich Commissar Buerckel, Dr. Rainer said:

> "But as a result of the agreement at Berchtesgaden and the statement of the Fuhrer made to him during his state visit to Berlin, Seyss-Inquart was the personal trustee of the Fuhrer and directly responsible to him for the illegal NSDAP in Austria within the confinesof his political sphere. ***** The seizure of power was the work of the party supported by the Fuhrer's threat of invasion and the legal standing of Seyss-Inquart in the government.
>
> The national result in the form of the taking over of the government by Seyss-Inquart was due to the actual seizure of power by the Party on one hand and the political efficiency of Dr. Seyss-Inquart in his territory on the other."

812-PS: Report of Gauleiter Rainer to Reich Commissar Buerckel and cover letter dated 6 July 1939. Report of events in the NSDAP of Austria from 1933 to 11 March 1938.

U. S. A. Exhibit 61.

3. The defendant Frank recognized the importance of the services rendered by Seyss-Inquart to the Nazi cause in Austria. Frank extolled Seyss-Inquart in the following words when the latter was about to leave Poland to become Reich Commissar of the Occupied Netherlands Territories:

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"But your name without that is shining like a light through the history of the Third Reich, since you are the creator of the National Socialist Austria.

3465-PS: Excerpt from speech made by Hans Frank, taken from the Frank Diary 1940, Vol. II, pp. 510, 511.

k. THE NAZI CONSPIRATORS WITHIN THE GERMAN REICH EVIDENCED THEIR INTENTIONS OF ANNEXING AUSTRIA IN MANY WAYS.

1. Hitler, on the very first page of Chapter 1 of his book "Mein Kampf", said:

"Today it seems to me providential that Fate should have chosen Braunau on the Inn as my birthplace. For this little town lies on the boundary between two German states which we of the younger generation at least have made it our life work to reunite by every means at our disposal.

German-Austria must return to the great German Mother Country, and not because of any economic considerations. No, and again no: even if such a union were unimportant from an economic point of view; yes, even if it were harmful, it must nevertheless take place. One blood demands one Reich. Never will the German Nation possess the moral right to engage in Colonial politics until, at least, it embraces its own sons within a single state. Only when the Reich borders include the very last German, but can no longer guarantee his daily bread, will the moral right to acquire foreign soil arise from the distress of our own people. Their sword will become our plow, and from the tears of war the daily bread of future generations will grow."

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The defendant, Seyss-Inquart, devoted his efforts to legalize the sale and circulation of the book "Mein Kampf" in Austria. Hence, it is evident that he was familiar with the book. His letter to Keppler, German Secretary of State for Austrian Affairs, contained the following passage :

> " The Teinfaltstrasse is very well informed even if not in detail about my efforts regarding the re-permission of the book 'Mein Kampf'."

3392-PS : Letter from Seyss-Inquart to Keppler, dated 3 Sept., 1937.

2. The defendants, Goering and Schacht, both told a diplomat of the United States that it was Germany's determination to annex Austria and Sudentenland to the Reich.

L-151 : Photostat copy of dispatch 1267, Paris, dated November 23, 1937, from Ambassador Bullitt to U. S. State Department.

3. One of the missions of the defendant, von Papen, as a German Ambassador to Austria, was to effect a change in the personnel of the Austrian Cabinet headed by Chancellor von Schuschnigg to eliminate anti-Nazi opposition, particularly in the Ministry of Interior and Security.

3246-PS : Excerpt from letter of von Papen to Hitler.

USA Exhibit 67

4. The German Reich applied economic pressure upon Austria. One of the means adopted being the law of 24 March 1933, which required payment of 1,000 Reichs Marks by every German crossing the border into Austria.

3467-PS : RGB l, 1933, I, p. 311.

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Kurt von Schuschnigg, former Chancellor of Austria, in his affidavit of 19 November 1945, described this economic pressure upon Austria by Germany in the following words:

> " During my tenure of office as Federal Chancellor of Austria, more particularly on the 11th day of July, 1936, I negotiated with the then existing government of the German Reich, and with Adolf Hitler, an Agreement, more particularly known as the Agreement of 11 July 1936.
>
> I further depose and say that, prior to the consummation of the aforesaid Agreement, the German Government had placed certain economic barriers against trade between Germany and Austria such as - to-wit - the 1,000 mark barrier which said barrier provided that any German citizen who crosses the border of Germany into Austria is obliged to pay to the German Government the sum of 1,000 German Reichs Marks for the privilege thereof - Austria had been accustomed before this edict of the German Government to receive into Austria some one hundred thousand visitors from Germany annually.
>
> I further state that the aforesaid barrier placed against Austria was extremely injurious to Austrian agriculture and industrial interests."
>
> 2994-PS : Affidavit of Kurt von Schuschnigg, dated 19 November 1945.

5. The defendant Jodl in his diary stated that in 1938 the aim of German policy was the elimination of Austria and Czechoslovakia. The will of resistance in both countries was undermined by pressure on the government as well as propaganda and fifth column. At the same time German military preparations for attack were worked out. "Case Otto" was the code name for the Austrian campaign, and "Case Green" was the code name for the battle plans against Czechoslovakia.

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The defendant Jodl also stated in his diary that when Chancellor von Schuschnigg announced the proposed plebicite for 13 March 1938, Hitler was determined not to take this. The defendant Goering, General Reichenau and Minister Glaise-Horstenau were called to Hitler. "Case Otto" was to be prepared and mobilization of army units and air forces were ordered, 10 March 1938, and the march into Austria took place on 11 March 1938.

1780-PS : Photostat of Jodl's Diary in his own handwriting, 4 January 1937 to 22 August 1939.

U.S.A. Exhibit 72.

1. HITLER AND HIS NAZI GOVERNMENT OF GERMANY COMPLETED THE ANNEXATION OF AUSRIA BY DECREE.

1. On 11 March 1938 Hitler issued a directive regarding "Case Otto" addressed to the German armed forces, classified as "Top Secret", in which he stated that, if other measures proved useless, his intentions were to invade Austria with armed forces. The directive prescribed operational duties, and assigned objectives. It further provided that resistance was to be broken up ruthlessly with armed force.

C-102 : Document signed by Hitler relating to "Plan Otto", 11 March 1938.
USA EXHIBIT 74

2. Later on that same day, at 2045 hours, Hitler issued a second directive, which, in substance, stated that the demands of the German ultimatum to Austria had not

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been fulfilled, and for that reason the entry of German armed forces into Austria would commence at daybreak on 12 March 1938. He directed that all objectives were to be reached by exerting all forces to the full as quickly as possible. The World now knows precisely what Hitler meant when he ordered "that all objectives were to be reached by exerting all forces to the full as quickly as possible". The tears Hitler shed, upon achieving his life long aim to bring Austria into the Greater German Reich without shedding blood, shows that he was fully prepared to shed the blood of his native Austria in order to accomplish the Anschluss.

C-182 : Hitler Order, 11 March 1938, for entry of German troops into Austria.
USA EXHIBIT 77

3. On 13 March 1938 Germany formally incorporated Austria into the Reich by decree and declared it to be a province of the German Reich, in violation of Article 80 of the Treaty of Versailles.

2307-PS : RGB 1, 1938, I, p. 237, No.21.

4. Officials of the Province of Austria were then required by decree to take an oath of personal obedience to Hitler. Jews were barred from taking this oath, and thus could not retain offices and positions previously held by them.

2311-PS : Decree of the Fuehrer and Reichs Chancellor concerning the administration of the oath to officials of the Province of Austria, 15 March 1938, RGB 1, 1938, I, p. 245, No.24.

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5. Members of the Austrian Army were required to take an oath of personal allegiance to Hitler as their Supreme Commander.

2936-PS : Instructions of the Fuehrer and Reichs Chancellor concerning the Austrian Federal Army, 13 March 1938, Dokumente der Deutschen Politik, VI, 1, p. 150, No. 32 a.

6. Compulsory military service was instituted in Austria by law, which provided the Greater German Reich with additional manpower for its armed forces.

1660-PS : Compulsory Military Service for Austria, 1938, RGB 1, I, p. 631, No.92.

m. FOR FURTHER DATA AND PROOF OF POLITICAL PLANNING, PREPARATIONS AND PARTICIPATION OF THE NAZI CONSPIRATORS FOR A WAR OF AGGRESSION AGAINST AUSTRIA IN VIOLATION OF TREATIES, AGREEMENTS AND ASSURANCES, REFERENCE IS MADE TO THE BRIEF OF SECTION 3 ON " AGGRESSION AGAINST AUSTRIA."

n. PROOF OF OFFICIAL ACTS OF THE DEFENDANT, SEYSS-INQUART, AS " REICHSTATTHALTER " OF AUSTRIA APPEARS ELSEWHERE IN THIS BRIEF.

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o. THE DEFENDANT PARTICIPATED IN THE EXECUTION OF THE PLANS FOR AGGRESSION AGAINST CZECHOSLOVAKIA.

1. In an official report to Viscount Halifax, Basil Newton, an official of the British Government, related some of the "gangster methods employed by the Reich to obtain its ends in Czecho-Slovakia". The part played by the defendant Seyss-Inquart, was described in the report in the following words:

> "On M. Sidor's return to Bratislava, after he had been entrusted with the Government in place of Mgr. Tiso, Herr Buerckel, Herr Seyss-Inquart and five German generals came at about 10 pm on the evening of Saturday, the 11th March, into a Cabinet meeting in progress at Bratislava, and told the Slovak Government that they should proclaim the independence of Slovakia. When M. Sidor showed hesitation, Herr Buerckel took him on one side and explained that Herr Hitler had decided to settle the question of Czecho-Slovakia definitely. Slovakia ought, therefore, to proclaim her independence because Herr Hitler would otherwise disinterest himself in her fate. M. Sidor thanked Herr Buerckel for this information, but said that he must discuss the situation with the Government at Prague."

Hitler expressed his intention to crush Czechoslovakia in the following language:

> "At Munich I did not take Bohemia and Moravia into the German territorial sphere ('Lebensraum'). I left the Czechs only another five months, but for the Slovaks I have some sympathy. I approved the Award of Vienna in the conviction that the Slovaks would separate themselves from the Czechs and declare their independence, which would be under German protection. That is why I have refused Hungarian demands in respect of Slovakia. As the Slovaks appear to be agreeing with the Czechs it looks as though they have not respected the spirit of the Vienna Award. This I cannot tolerate. To-morrow at mid-day I shall begin military action against the Czechs, which will be carried out by General Brauchitsch" (who was present and to whom he pointed). "Germany," he said, "does not intend to take Slovakia into her 'Lebensraum,' and that is why you must either immediately proclaim the independence of Slovakia or I will disinterest myself in her fate. To make your choice I give you until to-morrow mid-day, when the Czechs will be crushed by the German steam-roller."

The defendants von Ribbentrop and von Neurath also participated in the execution of the Nazi plot to obliterate Czechoslovakia as a nation.

D-571: Official report to Viscount Halifax dated 21 March 1939.

USA EXHIBIT 112

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2. The use of pressure, 5th Columnists and propaganda to undermine the will of resistance in Czechoslovakia, and the preparation of military plans for the attack upon that country were all noted in his diary by the defendant Jodl.

1780-PS : Photostat of Jodl Diary in his own handwriting, 4 January 1937 to 22 August 1939.
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3. Before the annexation of Austria by Germany the defendant Seyss-Inquart was in communication and contact with Konrad Henlein, the leader of the Sudeten German Nazis in Czechoslovakia. On 29 December 1937 Seyss-Inquart wrote a letter to Henlein expressed in encouaging terms and extending his warmest sympathy with the hope for the success of the Sudeten Germans.

3523-PS : Letter from Seyss-Inquart to Henlein dated 29 December 1937.

Henlein thereafter wrote a letter to the defendant Seyss-Inquart dated a few days after the annexation of Austria by Germany had been accomplished. In this letter he expressed his pride in the fact that Seyss-Inquart, born a Sudeten German, had fulfilled the task determined by the Fuehrer in the most decisive hour of German history. He also thanked Seyss-Inquart for the effect and influence the developements in Austria would have in the Sudetenland.

3522-PS : Letter from Henlein to Seyss-Inquart, dated 17 March 1938.

4. For further data and proof of the political planning, preparations and participation of the Nazi conspirators for the War of Aggression against Czechoslovakia in Violation of Treaties, Agreements, and Assurances, reference is made to the following Brief of Section 3 : " The Execution of the Plan to Invade Czechoslovakia."

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III. THE DEFENDANT, SEYSS-INQUART, PARTICIPATED IN THE POLITICAL PLANNING AND PREPARATION OF THE NAZI CONSPIRATORS FOR WARS OF AGGRESSION AND WARS IN VIOLATION OF INTERNATION TREATIES, AGREEMENTS AND ASSURANCES SET FORTH IN COUNTS ONE AND TWO OF THE INDICTMENT.

a. The defendant, Seyss-Inquart, was a member of the Reichstag and of the Reich Cabinet before the invasion of Poland, and occupied those positions until the unconditional surrender of Germany.

1. Thus he is equally responsible for the acts and decisions of the members of those governmental bodies concerning the political planning and preparation of the Nazi Conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements and Assurances set forth in Counts One and Two of the Indictment.

2010-PS: Certificate of defendant, 10 November 1945.
USA Exhibit 17.

2. The German Reichstag came under the control of the Nazi conspirators with the advent of Hitler into the German Government and became a willing tool in the hands of Hitler and his lieutenants.

For data and proof as to how the German Reichstag came under the control of the Nazi Conspirators reference is made to the following Briefs of Section 1, and supporting Document Books:

"The acquiring of Totalitarian Control Over Germany, Political, First Steps; Control Acquired." Document Book "B".

"Consolidation of Control: Utilization and Molding of Political Machinery." Document Book "C".

"Purge of Political Opponents; Terrorization". Document Book "F".

3. The members of the Reich Cabinet were the accomplices, aiders and abettors of Hitler and his closest Nazi lieutenants in the political planning and preparation for Wars of Agression and Wars in Violation of International Treaties, Agreements and Assurances.

For data and proof as to the duties, functions and activities of the Reich Cabinet reference is made to the following Brief of Section 6, and supporting document Book:

"Reichscabinet".

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IV. THE DEFENDANT SEYSS-INQUART AUTHORIZED, DIRECTED AND PARTICIPATED IN THE WAR CRIMES SET FORTH IN COUNT THREE OF THE INDICTMENT.

a. AUSTRIA.

1. POSITION AND AUTHORITY.

The defendant Seyss-Inquart was appointed Reich Governor of Austria by Hitler on 15 March 1938, and was put in charge of the Civil Administration. Austria had then ceased to exist as an independent nation and was a province of the German Reich, as has been previously shown.

(a) 2910-PS: Certificate of defendant, 10 November 1945. USA Exhibit 17.

(b) 3425-PS: Voluntary statement signed by Seyss-Inquart with advice of Counsel on 10 December 1945.

The defendant Goering, as Delegate for the Four-Year Plan, commissioned the defendant Seyss-Inquart, who was then Reichsstatthalter in Austria, jointly with the Plenipotentiary of the Reich, to consider and take any steps necessary for the "Aryanization of business and economic life, and to execute this process in accordance with our laws" (Laws of the Reich).

3460-PS: Speech by Goering. Gritzbach, E.: Hermann Goering, Reden und Aufsaetze, Munich, 1938, pp. 348-349.

Seyss-Inquart participated in the drafting of laws for the sequestration and confiscation of property of the so-called "enemies of the people and State". Evidence of this fact is found in the correspondence between the defendant Seyss-Inquart and Dr. Lammers, Chief of the Reichs Chancellery.

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On 24 October 1938 Seyss-Inquart wrote a letter to Dr. Lammers stating, in substance, that the law providing for the sequestration and confiscation of the property of enemies of the State was almost completed and ready for the signature of the Fuehrer, expressing the hope that the signature would be obtained soon. In reply Dr. Lammers wrote Seyss-Inquart that the decree would be issued by the Reichminister of the Interior, a copy of which had been submitted to Hitler who had expressed no objections.

(a) 3448-PS: Letter from Seyss-Inquart to Dr. Lammers, dated 24 October 1938.

(b) 3447-PS: Letter from Dr. Lammers to Seyss-Inquart.

The power and authority of the defendant Seyss-Inquart with respect to the sequestration and confiscation of the property of "enemies of the State" is found in a decree empowering the Reichsstatthalter in Vienna or the office designated by him to confiscate property of persons or societies which have promoted efforts inimical to the people of the State. This decree also attempted to legalize the confiscation of property ordered by the Secret State Police prior to the issuance of the decree.

3450-PS: Decree concerning sequestration and confiscation of property of enemies of the State in Austria.

While the above described decree appeared to be a secret law, because it was not published, yet its existence as law is evidenced by a letter written to the Reichsfuhrer SS and Chief of the German Police, Himmler, in January 1939, which shows that the decree was in fact issued on 18 November 1938.

3449-PS: Letter to Reichsfuehrer SS and Chief of the German Police, January 1939.

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2. MURDER AND ILLTREATMENT OF CIVILIANS.

The defendant Seyss-Inquart was aware of the fact that the so-called enemies of the State were imprisoned in concentration camps. His knowledge of a procedure of this kind is evidenced by the very fact that he claims some credit for the transfer of his predecessor as Chancellor of Austria, von Schuschnigg, from one concentration camp to another in south Germany, which was in the path of the armed forces of the United States.

3254-PS: Memorandum "The Austrian Question" by Seyss-Inquart, p. 36.

One of the most notorious concentration camps was Mauthausen, which was located in Austria and was in existence while the defendant Seyss-Inquart was the Reich Governor of the Province of Austria. This camp became noted as an extermination center. Evidence concerning the Mauthausen Concentration Camp has been previously introduced.

2176-PS: Report on Mauthausen Concentration Camp.

USA Exhibit 249.

For further data and proof of the murder and illtreatment of the civilian population of Austria reference is made to the following briefs:

"Crimes Against Civilians of or in Occupied Territories", prepared by Section 4.

"Common Plan and Conspiracy in the Establishment of Concentration Camps", prepared by Section 4.

"Crimes Committed in Concentration Camps", prepared by Section 4.

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3. PLUNDER OF PUBLIC AND PRIVATE PROPERTY.

Even before the issuance of the aforesaid decree for the sequestration and confiscation of the property of the so-called enemies of the State, the defendant Seyss-Inquart wrote a letter to Hitler indicating he had come into the possession of from 700 to 900 first class tapestries. He offered to hang up the most beautiful pieces so that his Fuehrer might make a selection for the buildings used and occupied by Hitler. In this same letter Seyss-Inquart expressed his pride and wonder over the manner in which Hitler had "solved the Sudeten problem."

3391-PS: Letter from Seyss-Inquart to Hitler, dated 30 September 1938.

While the defendant was Reich Governor of the Province of Austria a large quantity of valuable property, including works of art, belonging to the so called enemies of the State, was seized, sequestered and confiscated. A partial list of such property is found in a memorandum which referred to a report of the Reich Fuehrer SS and Chief of the German Police submitted with a letter dated 10 August 1938 and received in Berlin 26 September 1938. This inventory listed a total of 162 cases of confiscation, of which 113 cases had a value of some 93,366,358.24 marks. It is quite significant that the real owners of this property were Jews and political opponents of the Nazis.

3446-PS: Memorandum relating to a report and letter of the Reich Fuehrer SS and Chief of the German Police dated 13 October 1938.

For further data and proof of the plunder of public and private property in Austria reference is made to the following briefs:

"Economic Aspects of the Conspiracy", prepared by Section 2.

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"Plunder of Art Treasures", prepared by Section 4.

b. POLAND.

1. POSITION AND AUTHORITY.

The defendant Seyss-Inquart was appointed Deputy Governor General of the Polish Occupied Territory by Hitler's decree of 12 October 1939, which also appointed the defendant Frank Governor General of the Polish Occupied Territory. The official title of the government of Poland under the Nazi conspirators was the "General Government".

3147-PS: Das Archiv, Vol. 67, p. 830.

Prior to his appointment as Deputy Governor General of the Polish Occupied Territory, the defendant Seyss-Inquart was Chief of the Civil Administration of South Poland from the early part of September 1939 to 12 October 1939.

2910-PS: Certificate of Defendant, dated 10 November 1945.

Seyss-Inquart as Deputy Governor General of the Polish Occupied Territory was second only to the Governor General, the defendant Frank.

3444-PS: Excerpt from Frank Diary of 1939, 14 December 1939, p. 99.

The Chief of the Office of the Governor General of the Polish Occupied Territory and the Higher SS and Police Leaders were directly subordinate to the Governor General and his representative. In turn the leaders of the General and Security Police were subordinated to the Higher SS and Police Leaders.

3468-PS: Dokumente der Deutschen Politik, Vol. VII - 2, p. 674.

According to the defendant Frank the defendant Seyss-Inquart organized the General Government of Poland. When the defendant Seyss-Inquart was about to depart to assume his new duties as Reich Commissar

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for the Occupied Netherlands, the defendant Frank eulogized Seyss-Inquart in a speech, a quotation from which follows:

> "In the construction of the Generalgovernment, your name will forever take a place of honor as originator of this organization and State system. I express our thanks, Mr. Reichminister, for your collaboration and for your creative energy in the name of all officers, employees, and laborers, of all SS organizations and the whole police force of the Generalgovernment, and in the name of the District Chiefs, the Gau and city leaders, in the name of all otherwise on the order of the Reich and the Fuehrer here active persons....."

3465-PS: Excerpt from Frank Diary, 1940, Vol. II, pp. 510, 511.

During the month of November 1939 the defendant Seyss-Inquart made a tour of inspection in Poland. While on this tour he gave lectures to the German officials of the General Government of Poland concerning their duties and the German administrative policy in that country. He told these officials that the only principal aim of that policy was to satisfy the interests of the Reich and that they should promote everything of use to the Reich and hamper all that causes damage to the Reich. He instructed the officials to the effect that the German Government must achieve the utilization of the General Government of Poland for German economic purposes.

2278-PS: Report about trip of Reichminister Seyss-Inquart to the General Government of Poland, dated 17-22 November 1939.

2. MURDER AND ILLTREATMENT OF THE CIVILIAN POPULATION OF OR IN OCCUPIED TERRITORIES.

While the defendant Seyss-Inquart was on the aforesaid tour of inspection a Dr. Lasch, who was a District Governor, reported to Seyss-Inquart that all criminals found in the penitentiaries were shot. However, the executions were conducted in closed off wood areas and not in public.

2278-PS: Report about trip of Reichminister Seyss-Inquart to the General Government of Poland, dated 17-22 November 1939.

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In his report concerning his tour of inspection the defendant Seyss-Inquart stated that the intellectuals of Poland were to a greater part locked up. He also passed on the suggestion made by District Governor Schmidt to use the "moorish" country around Cychov, Poland, as a reservoir for Jews because this measure might have a decimating effect upon the Jewish population of Poland.

2278-PS: Report about trip of Reichminister Seyss-Inquart to the General Government of Poland, dated 17-22 November 1939.

The defendant Frank, in his capacity as Governor General of the Polish Occupied Territory, made an official report to Hitler in which he stated that, in the course of time, a series of measures or consequences of the German rule had led to a substantial deterioration in the "attitude" of the entire Polish people due to malnutrition, mass arrests, mass shootings and rigorous methods used to obtain forced labor. In this report it was admitted that before 1939 the food supply of the Polish people was quite adequate to sustain them.

437-PS: Copy of secret report of Hans Frank to Hitler concerning mass arrests, mass shootings, etc., by the German Poles, dated 19 June 1943.

3. PLUNDER OF PUBLIC AND PRIVATE PROPERTY.

During the aforesaid tour of inspection the defendant Seyss-Inquart ordered the seizure of all soap stocks, and informed the German officials that the seizure of soap and tea was to be regarded as most important. In addition he ordered a marshalling of goods such as oil, salt, manures, etc., in monopolies such as cooperative societies. He also directed that the Polish unemployment fund

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in a considerable amount to be diverted to the repair of damaged buildings.

2278-PS: Report about trip of Reichminister Seyss-Inquart to the General Government of Poland, dated 17-22 November 1939.

The defendant Frank in his report to Hitler stated that there had been a confiscation of a great part of the Polish estates together with encroachments upon and confiscation of industries, trades, professions and private property.

437-PS: Copy of secret report of Hans Frank to Hitler concerning mass arrests, mass shootings, etc., by the German Poles, dated 19 June 1943.

4. CONSCRIPTION OF CIVILIAN LABOR.

The defendant Seyss-Inquart, as Deputy Governor General of the Polish Occupied Territory, attended the vast majority of the staff meetings held by the defendant Frank, the Governor General. Numerous matters were therein discussed and decisions made with respect thereto. Among the subjects discussed and decided upon was the conscription and deportation of vast numbers of Polish nationals to the Reich for forced labor, some of whom were employed in the instruments for war production in violation of Article 6, 6(b) and 6(c) of the Charter, and Articles 6, 23h, 46 and 52 of the Hague Regulations 1907, as well as the Prisoner of War Convention (Geneva 1929). On 11 January 1940 one Frauendorfer reported in the presence of the defendant Seyss-Inquart that daily transports, each carrying 1,000 workers, were going to the Reich. Thus the defendant Seyss-Inquart aided and abetted in these violations.

2233-PS: Excerpt from Frank Diary, 1940, Vol. I, p. 18.

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According to the defendant Frank there were around 160,000 agricultural workers and about 50,000 industrial workers conscripted and deported from Poland to the Reich up to and including 21 April 1940. Because the total quota had been fixed at 500,000 and there were not enough "voluntary enlistments", the solution to the problem was the use of coercive measures. The defendant Seyss-Inquart participated actively in the discussions on this matter, and thus aided materially in the solution of the problem.

2233-PS: Excerpt from Frank Diary, Vol. II, p. 333.

5. GERMANISATION OF OCCUPIED TERRITORIES.

The Nazi government of the Polish Occupied Territory was determined to make Poland entirely German. Evidence of this intention will be found in other briefs prepared by other sections. However, the defendant Frank in his report to Hitler supplied enough evidence from which a reasonable inference may be drawn. He reported that there had been an expropriation of property and expulsion of Polish nationals therefrom for German settlements in Poland.

437-PS: Copy of secret report of Hans Frank to Hitler concerning mass arrests, mass shootings, etc., by the German Poles, dated 19 June 1943.

6. For further data and proof of War Crimes set forth in Count III of the Indictment reference is made to the Brief prepared by Section 3 relating to the individual responsibility of the defendant Hans Frank, the Brief prepared by Section 2 relating to the Spoliation of Poland and the various Briefs prepared by Section 4 relating to the Waging of Ruthless Warfare.

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C: THE NETHERLANDS

1. Position and Authority.

Seyss-Inquart was appointed Reich Commissar for the occupied Netherlands territories by decree of Hitler dated 18 May 1940. As "guardian of the interests of the Reich" this decree invested the defendant with "supreme civil authority," made the defendant responsible only to Hitler, and empowered him to promulgate laws by decree for the occupied Netherlands territories.

1376-PS, Verordnungsblatt für die besetzten niederlandischen Gebiete, No. 1, 5 June 1940, p.2; and 1940 Reichsgesetzblatt I, p. 778. (Decree of the Fuehrer concerning the exercise of Governmental Authority in the Netherlands.)

2910-PS, Positions held by Seyss-Inquart. US Exhibit 17.

2. Abrogation and Modification of Netherlands Legislation not justified by Military Necessity.

In his capacity as Reich Commissar of the occupied Netherlands territories the defendant Seyss-Inquart authorized and directed the abrogation or modification of Netherlands legislation not demanded or justified by military exigency, which action was in violation of Article 43 of the Hague Regulations, 1907, and constituted a war crime within the meaning of Article 6 (b) of the Charter. The acts included:

Abolition of Provincial and Municipal Law.

3340-PS, Verordnungsblatt für die besetzten niederlandischen Gebiete, No. 8, 1 March 1941, p. 137. (First Order of the Reich Commissar for the Occupied Netherlands Territories concerning Extraordinary Measures of a Constitutional and Administrative Nature.)

3342-PS, Verordnungsblatt für die besetzten niederlandischen Gebiete, No. 33, 11 August 1941, p. 637. (Eighth Order of the Reich Commissar for the Occupied Netherlands concerning Special Measures Affecting Administrative Organization.) (Translated in Lemkin, Axis Rule in Occupied Europe, pp. 458, 461.)

Ordinary criminal laws not in conflict with the permissable objectives of the occupying powers were abrogated, suspended or radically changed. Administrative courts martial

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were established by decree of the defendant as Reich Commissar which empowered the Leader of the Superior SS and the Police and Special Agents appointed by the Reich Commissar to deviate from existing law." Such decree also prescribed harsh penalties for misdemeanors, extending from 10 years to life imprisonment, and included the death penalty (i) for participating in "activities likely to disturb or endanger public order and security" and (ii) for intentional violation of the orders of the Reich Commissar.

2111-PS, Verordnungsblatt, No. 11, 20 March 1941, p. 190. (Order of the Reich Commissar for the Occupied Netherlands Territories concerning the Establishment of Administrative Courts Martial.)

Existing marriage laws were amended by the defendant to substitute approval of the Reich Commissar for the consent of parent or guardian of the Netherlands female where required, and to dispense with the statutory waiting period, thus facilitating and promoting intermarriage of Germans with female persons of Netherlands nationality.

3339-PS, Verordnungsblatt, No. 8, 28 February 1941, p. 143. (Order of the Reich Commissar for the Occupied Netherlands Territories concerning Marriages of Male Persons of German Nationality in the Occupied Netherlands Territories, and Related Matters;) Lemkin, supra, p. 474.

Existing legislation concerning Netherlands nationality was modified by the defendant in favor of Germany.

3341-PS, Verordnungsblatt, No. 32, 8 August 1941, p. 622. (Third Order of the Reich Commissar for the Occupied Netherlands Territories concerning Certain Provisions in Connection with Netherlands Nationality;) Lemkin, supra, p. 460.

Additional decrees were issued by the defendant as Reich Commissar not justified or demanded by the military interests of the occupant, which amended or superseded and distorted existing laws concerning press, education, social services, corporate life, trade unionism, medical care, art, science, and divers phases of the political, social, economic and industrial life of the Netherlands. Some of these enactments, including the descriminatory decrees against the Jews, are considered in greater detail in later sections of this Brief.

1726-PS : Statement of Netherlands Government concerning German War Crimes.

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3. Germanization of Netherlands Territory.

Seyss-Inquart, in his capacity as Reich Commissar for the occupied Dutch Territory, took affirmative steps to assimilate the territory under his jurisdiction politically, culturally, socially ( ) economically into the German Reich, which action violated Articles 43, 46, 55 and 56 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law, the internal penal laws of the countries in which such crimes were committed, and Article 6 (b) of the Charter.

The more offensive crimes in the above category, such as economic exploitation and enforced conscription are considered in detail elsewhere in this brief. Other "Germanization" measures, such as the decrees promoting marriage between German males and female Netherlanders, and altering citizenship laws in favor of Germany, were adverted to in the preceding section.

When he assumed office on 29 May 1940, Seyss-Inquart said in a speech at The Hague:

> "We neither will oppress this land and its people imperialistically nor will we impose on them our political convictions. We will bring this about in no other way - only through our deportment and our example."
>
> 3430-PS, Seyss-Inquart, Vier Jahre in Den Niederlanden, Gesammelte Reden, (Four Years in The Netherlands, Collected Speeches;) Volk und Reich Verlag, Amsterdam, 1944, p. 10.

The bona fide of the above statement is belied by a public statement made by the defendant two years later. In a speech at Hengelo on 19 May 1943 he had changed his tune, viz:

> "Several times it has been held against me that I have let national socialism come to the fore in all phases in public life. As far as I am concerned that is no reproach, it is a historical mission, which I have to fulfill here. (Emphasis supplied.)
>
> 3430-PS, Seyss-Inquart, ibid, p. 144.

Full disclosure of Seyss-Inquart's intentions and actions with respect to nazification and exploitation of

Holland was made in a Top Secret Report prepared by him and sent to Berlin covering the situation in the Netherlands during the period 29 May to 19 July 1940. This report was forwarded by Lammers of the Reich Chancellery to Rosenberg. Seyss-Inquart prefaces the report by describing his mission as not merely the guarding of Reich interests and maintaining order, but also the building of close economic ties between the Netherlands and the Reich. The report catalogues in considerable detail the measures initiated by Seyss-Inquart, discusses the building up of the NSDAP in the Netherlands, and adverts to the proposed creation of Nazi para-military and corresponding organizations. It also mentions the efforts made to bring about an assimilation of interests between Holland and Germany in the fields of economics and agriculture, culture, art and science. The report points out that the allocation of supplies made, and financial and currency arrangements prescribed, were favorable to the Reich; that such transactions were signed by Dutch officials so that the "appearance of being voluntary" was preserved.

997-PS, Top Secret Seyss-Inquart Report re: The Situation in the Netherlands, Exploitation and Nazification in the Period 29 May - 19 July 1940.

4. Spoliation of Property.

In his capacity as Reich Commissar for the Occupied Netherlands territory the defendant Seyss-Inquart authorized, directed and participated in the exploitation of the material resources of the Occupied Netherlands territory for purposes unrelated to the needs of the Army of Occupation, all in violation of Article 6 (b) of the Charter and Articles 43, 46-49, 52 of the Hague Regulations, 1907.

The above crimes, for which the defendant must share responsibility not only by virtue of his position as the dominant civil representative of the Reich Government in the Occupied Netherlands territory but also because of his direct participation in the initiation and execution of such criminal policies, took the following form:

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Control and exploitation of the Netherlands economy in the interest of the German total war effort.

Levy of excessive occupation charges on the Netherlands.

Exaction of large sums of money and gold as "external occupation costs," or "contributions to the war against Bolshevism."

Requisitioning of gold and foreign exchange of Dutch nationals for purposes unrelated to the needs of the occupation army.

Use of German Reichsmarks as currency in the Netherlands, for purposes unrelated to the needs of the occupation army, with compulsory free exchange of such Reichsmarks for gulden by the Netherlands Bank.

Evidence of the foregoing methods of exploitation of the occupied Netherlands and correlative enrichment of the Reich has been documented elsewhere.

/Brief of Section II - Economic Exploitation of the Netherlands./

The Nazi conspirators were measurably aided in executing the foregoing policies in Holland by the cooperation of a local Nazi, Rost van Tonnigen, who was appointed President of the Netherlands Bank and Treasurer in the Netherlands Ministry of Finance by Seyss-Inquart in the spring of 1941. The completely cooperative spirit with which van Tonnigen discharged his responsibilities in these posts was disclosed in the following excerpt from a report of the German Commissar of the Netherlands Bank:

> "The new President of the Netherlands Bank, Mr. Rost van Tonnigen, is, in contrast to a large part of the leadership, penetrated in his movements and his official acts by the greater German thought, and convinced of the necessity of the creation of a greater European economic space. This ideological attitude in itself gives him the correct position on financial and monetary policy questions for his country in relation to the greater German economic space. Furthermore it makes easier cooperation with my office, a fact

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which deserves special mention in consideration of the frequently observed impossible conduct of the Netherlands agencies before the entrance into office of the new President. I consider as a fortunate solution the fact that the Reichskommissar for the Occupied Dutch Areas has also entrusted Mr. Rost van Tonnigen with the Treasury of the Ministry of Finance (Schatzamt des Finanzministeriums). Mr. Rost van Tonnigen took over this office at the end of the month of April. Thus there is a guarantee that the financial and monetary policy of the country will be conducted according to unified points of view."

ECR-174, Report of the Commissar at the Netherlands Bank, 12 June 1941. See also Verordnungsblatt, No. 22, 24 August 1940 (Fourth Order of the Reich Commissar for the Occupied Netherlands concerning certain Administrative Measures;) Lemkin, ibid, pp. 455-456. This decree reserved the right to Seyss-Inquart to hire and fire certain officials, including the President of the Netherlands Bank.

In addition to the responsibility which attaches to the defendant Seyss-Inquart as a result of his dominant position in the Netherlands, his appointment of individuals imbued with Nazi ideals to key positions, and his complete knowledge of and acquiescence in illegal Nazi policies, there is conclusive evidence of his initiation of such policies. In April 1942 "at the instigation of the Reich Commissar Seyss-Inquart" the Netherlands began to pay a "voluntary contribution to the war against Bolshevism" of 50,000,000 gulders per month, retroactive to 1 July 1941, of which ten million per month was paid in gold.

ECR-195, RKK Amsterdam to Central Administration RKK, 21 April 1942.

By 31 March 1944, this contribution amounted to 2,150,000,000 RM.

EC-86, Report of Work Committee on Foreign Countries.

The alleged "voluntary" character of the contribution is to be taken with considerable reserve in view of the admission contained in Seyss-Inquart's Top Secret Report of 29 May to 19 July 1940, that the voluntary nature of previous financial and economic measures was in reality fictional.

997-PS, Top Secret Report of Seyss-Inquart.

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However, the question whether or not the subject contribution is to be deemed at the direction of Seyss-Inquart or was in fact "voluntary" is immaterial. It is manifest that the then President of the Netherlands Bank and Treasurer in the Ministry of Finance, van Tonnigen, acted in the German interest and to the detriment of the Netherlands. His acts are attributable to the responsible head of the German Civil Administration in the Netherlands and the individual to whom he owed his appointment, the defendant Seyss-Inquart.

5. Participation in Activities of Einsatzstab Rosenberg.

The defendant Seyss-Inquart in his capacity as Reich Commissar for the Occupied Netherlands territory, also cooperated with and acquiesced in the activities of the Einsatzstab Rosenberg in the territory under his jurisdiction. He is therefore criminally responsible for his actions in this regard, which constituted crimes under Article 6 (b) of the Charter and violations of Articles 46, 47 and 56 of the Hague Regulations, 1907.

The Einsatzstab Rosenberg initiated as a research library project, developed into a systematic program for the wholesale looting of art treasures and cultural objects in the conquered territories. Its infamous activities have been documented elsewhere.

/Brief of Section IV - "Plunder of Art Treasures" with supporting Document Book./

Implication of Seyss-Inquart in the criminal activities of the Einsatzstab Rosenberg is revealed in a detailed progress report of its chief Netherlands representative, Schimmer. The following is quoted from the first paragraph of this lengthy report:

> "The Working Group Netherland of the Einsatzstab Reichsleiter Rosenberg began its work <u>in agreement with the competent representative of the Reichskommissar</u> during the first days of September 1940.

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> The execution of the post, conforming with the Fuehrer's orders, coordinated itself with the liquidation, that is confiscation, according to civil law, of the various subversive institutions - as set forth in the circulars of the OKW, dated 5 July 1940, and of the Chief of the OKW to the Commander in Chief of the Wehrmacht in France, dated 17 September 1940, as well as to the Commander in Chief of the OKW in the Netherlands, dated 30 October 1940. The screening of the material of the various Masonic lodges was taken care of primarily, and the library and the archives of the following lodges were sifted and all useful material was packed." (Emphasis supplied.)
>
> 176-PS, Report on the activities of the Einsatzstab of the Bureau of Reichsleiter Rosenberg in the Occupied Western Territories and the Netherlands (Working Group Netherland).

There follows the specification of some 92 Masonic IOOF Lodges and Rotary Clubs which were screened and yielded 470 cases of valuable objects. Also, a large number of libraries and scientific and cultural institutions were listed with the statement that all books and archives contained therein were being catalogued preparatory to shipment to Germany.

176-PS, ibid.

The report concludes with the following statement indicating close integration in the Netherlands between Rosenberg's program of grand larceny and Seyss-Inquart's anti-Jewish program, viz:

> "The Working Group, in executing the afore-mentioned tasks, is bound strictly to the pace set by the Reichskommissar for the handling of the Jewish questions and that of the international organizations. This pace again is determined by the political evolution which is taking shape according to decisions made on a higher level, and which must not be hampered by individual acts." (Emphasis supplied.)
>
> 176-PS, ibid.

Other documents captured from Rosenberg's files remove any doubt whatever as to Seyss-Inquart's full knowledge of the criminal activities of the Einsatzstab Rosenberg in Holland and his participation therein. On 11 September 1944 Rosenberg informed Seyss-Inquart by letter that orders had been issued for the seizure and transportation to Germany of the library of the Social Institute in Amsterdam.

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091-PS, Letter from Rosenberg to Seyss-Inquart re seizure of a library in Amsterdam, dated 11 September 1944. See also 1621-PS, Photostat of secret letter from Reichsfuehrer SS to General Rauter. Upon suggestion of General Sievers, whose letter is attached, SS Gen. Rauter in the Hague is ordered to seize medical apparatus at the Universities of Leyden and Utrecht with the aid of Seyss-Inquart. The letter is signed by Brandt.

6. Conscription of Civilian Labor

In his capacity as Reich Commissar for the occupied Netherlands territories the defendant Seyss-Inquart authorized, directed, participated in and abetted the deportation of vast numbers of Netherlands nationals to the Reich for forced labor in the instruments of German war production, all in violation of Articles 6 (b) and (c) of the Charter; Articles 6, 23h, 46 and 52 of the Hague Regulations, 1907; and the Prisoner of War Convention, Geneva, 1929.

The deportation program in the Netherlands was initiated on 20 June 1940, five weeks after the occupation of that country. The Germans at first deported only the unemployed, threatening them with curtailment of their dole for refusal. Thereafter in 1942 measures were taken to draft employed workmen. Dutch business concerns were combed in "Sauckel-actions" for available workers who were forced to register at the labor offices. Workmen who refused were prosecuted by the SD, committed to one of the infamous prisoners' camps in the Netherlands, and eventually put to work in Germany. By the end of April 1942 the program was in full operation, and not less than 22,000 workers were deported that month. Many Belgian concerns not considered essential were closed down to release manpower for deportation to Germany or for work in Dutch industries deemed essential to the German war effort. New measures of a drastic nature were inaugurated in the spring of 1943. All males between 18 and 35 were forced to register for "arbeitseinsatz" (war effort) which was synonymous with deportation. As time elapsed and the German military situation deteriorated the measures taken became increasingly more ruthless. Whole sections of a town

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were lined off and people were seized in the streets or in their homes and transported to Germany. A total of approximately 431,500 Netherlands workers were deported to Germany and other foreign countries.

1726-PS, Statement of Netherlands Government concerning German War Crimes in the Netherlands.

Illustrative of the participation of Seyss-Inquart in the slave labor program are four proclamations which he caused to be issued, calling up Dutch civilians between certain ages for forced labor and threatening them with shooting in the case of non-compliance.

1162-PS, Four Proclamations calling up Dutch Civilians for Temporary Forced Labor.

The defendant Sauckel, General Plenipotentiary for the Employment of Labor, on 5 October 1945 disclosed, under oath, the part played by the defendant Seyss-Inquart in the forced recruitment of Dutch workers for German war production. Sauckel stated:

"Q. For a moment I want to turn our attention to Holland. It is my understanding that the quotas for the workers for Holland were agreed upon, and then the numbers given to the Reichskommissar Seyss-Inquart to fulfill. Isn't that correct?

A. Yes, that is correct.

Q. After the quota was given to Seyss-Inquart, it was his mission to fulfill it with the aid of your representatives, was it not?

A. Yes. This was the only possible thing for me to do and the same applied to the other countries."

Transcript of Interrogation of Sauckel, 5 October 1945, pp. 10-11.

The defendant Seyss-Inquart himself acknowledged under oath his active participation in deporting 250,000 Netherlands workmen between the ages of 17 and 42 toward the end of 1944, although he attempted to shift responsibility by stating that the order was issued by the Wehrmacht and that "I can't intervene against the Wehrmacht." However, he admitted:

"I didn't oppose it. I helped to carry it out in my province."

Transcript of Interrogation of Seyss-Inquart, afternoon session, 18 September 1945, pp. 19-20. See also Interrogation of Seyss-Inquart, afternoon session, 9 October 1945, pp. 20-25, for additional admissions concerning his participation in the forced labor program.

7. Murder and Ill-Treatment of Civilian Population, Including Killing of Hostages.

The defendant Seyss-Inquart, in his capacity as Reich Commissar for the Occupied Netherlands Territory, authorized, directed and participated in the exaction of collective penalties, murder and ill-treatment of the civilian population of the Netherlands, and the killing of hostages, all of which actions constituted war crimes and crimes against humanity within the meaning of Article 6 (b) and (c) of the Charter, and which violated (i) the Hague Regulations, 1907, Articles 46 and 50, (ii) the laws and customs of war, (iii) the general principles of criminal law as derived from the criminal laws of all civilized nations and (iv) the internal penal laws of Netherlands.

Public utterances of Seyss-Inquart reveal his determination to resort to ruthless measures for the purpose of intimidating and repressing the civilian population. In a speech commemorating the 10th Anniversary of Germany's coming into power, at Woert on 29 January 1943, before workers and trades of the NSDAP he spoke in part as follows:

> "I will give my instructions. They must be executed by all. In the present situation a refusal to execute such instructions could be regarded only as sabotage. It is also clear, now more than ever, that every resistance which is directed against this fight for existence must be suppressed. Some time ago the representatives of the churches had written to the Wehrmacht commander and to me, and they presented their conception against the execution of death sentences which the Wehrmacht commanders announced in the meantime. To this I can only say the following: The moment in which our men, fathers and sons with iron determination look towards their fate in the east and unflinchingly and steadfastly perform their highest pledge, it is unbearable to tolerate conspiracies whose goal is to weaken the rear of this eastern front. Whoever dares this must be annihilated. We must be severe and become even more severe against our opponents, this is the command of a relentless sequence of events, and for us perhaps humanly hard, but our holy duty. We remain human because we do not torture our opponents, we must remain firm by annihilating them."

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3430-PS, Seyss-Inquart, Vier Jahre in Den Niederlanden, Gesammelte Reden (Four Years in the Netherlands, Collected Speeches), Volk und Reich Verlag, Amsterdam, 1944, p. 124.

Endorsement of the policy of holding innocent persons responsible for the misconduct of others beyond their control is implicit in the following public statement of Seyss-Inquart made at Weert on 8 January 1945:

> "I have given orders to suppress all appearances with a severeness corresponding to the brutality of the crime. If in connection with these measures Dutch citizens are affected and have to undergo difficulties and limitations of special nature, then they have to seek the cause therefor solely in these eruptions of the anarchistic mental attitude of a few culprits and the just-as-criminal-tolerance or apathy within their own circles."

3430-PS, Seyss-Inquart, ibid, p. 167.

Evidence of Seyss-Inquart's application of this doctrine of vicarious responsibility is at hand. In a poster signed by him the Dutch population is warned to expect reprisals in the event of sabotage. The poster reads as follows:

"NOTICE

> "I consider all inhabitants responsible for the destruction or damage to railroad installations, waterways with their installations, telephone cables and Post Offices occuring within the boundaries of their locality.
>
> "The population of such localities may therefore expect reprisals in the form of seizure of property and destruction of houses or groups of houses.
>
> "I therefore advise the population to protect the means of transportation and communications by means of patrols or other appropriate measures.
>
> "The Hague 24 Sept 1944
>
> /s/ Seyss-Inquart
>
> The Reich Commissar for the Occupied Netherlands Territories."

1163-PS, Original posters warning Dutch population of reprisals and announcing the shooting of hostages.

Another poster issued by the Superior SS and Police Chief publicized with remarkable candor the fact that 12 Netherlanders were executed "independent of further investigation" as reprisals for the killing of two Germans. That poster is as follows:

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"NOTICE

"The Superior SS and Police Chief gives notice that on 20 November 1944 Schutzgruppenmann JANSSEN and on 13 December 1944 the Senior Officer Candidate GUSE were shot in the back by criminal Netherlands elements. Both were robbed of their pistols.

"Independent of further investigation of the perpetrators, two houses were blasted and 12 Netherlanders were executed at the place of one of the crimes as reprisals.

"The Hague, 16 Dec 1944"

1163-PS, ibid.

In an interrogation under oath the defendant acknowledged that Netherlanders were shot as hostages without trial. While he sought to shift responsibility to the SS he admitted that upon one occasion the SS called on him to furnish 50 hostages and that he gave five instead, all of whom were shot.

Transcript of Interrogation of Seyss-Inquart, 18 September 1945, p. 20.

Other crimes against humanity are documented in the statement of the Dutch Government. The vastness of the scale of the commission of such crimes and the necessary notoriety thereof clearly implicate Seyss-Inquart as the responsible civil head of the German Government in the Netherlands territory.

1726-PS, Statement of Netherlands Government concerning German War Crimes in the Netherlands.

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V. THE DEFENDANT SEYSS-INQUART AUTHORIZED, DIRECTED AND PARTICIPATED IN THE CRIMES AGAINST HUMANITY AS SET FORTH IN COUNT FOUR OF THE INDICTMENT.

a. AUSTRIA

1. PERSECUTION OF THE JEWS

While the defendant Seyss-Inquart was the Reich Governor of the Province of Austria, laws were decreed directed against the Jews and against those who opposed the Nazi Regime politically. As has been shown, this usually took the form of decrees providing for the sequestration and confiscation of the property of these so called enemies of the State.

In the early days of November 1938, pogroms against the Jews took place all over the German Reich, including Austria. These pogroms resulted from the killing of vom Rath, a diplomatic official at the German Embassy in Paris, by a young Jew by the name of Grynszpan. Jewish synagogues, homes and shops were smashed and destroyed by fire. Large numbers of Jews were arrested, jailed or placed in concentration camps. A partial report as to what occurred during the 9th and 10th of November 1938 is found in a letter written by the Reich Commissar for the Reunion of Austria with the German Reich, Josef Buerckel, to the defendant Goering, dated 18 November 1938. This report shows how the fire department was not utilized to control the flames consuming Jewish homes, stores, shops and synagogues. The school children in Vienna were given an opportunity to participate in the demonstrations "according to the order". Buerckel's report also discloses that enormous quantities of valuables, jewlry and merchandise were stolen from the Jews during these pogroms.

2237-PS, Letter to Goering from Reich Commissar for the Reunion of Austria with the German Reich dated 18 November 1938.

A more detailed description of what happened in Vienna during the 9th and 10th of November 1938 is found in the stenographic report of a meeting on "The Jewish Question" under the Chairmanship of

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the defendant Goering. This meeting was held on 12 November 1938. It appears from this report that altogether 101 synagogues were destroyed by fire, 76 synagogues demolished and 7,500 stores ruined in the Reich, including Austria. In this same meeting, a member of the official family of the defendant Seyss-Inquart (Reich Governor of the Province of Austria) related the efficiency with which the Civil Administration in Austria dealt with the so called "Jewish Question". This official was Fischboeck, and in his verbal report to the defendant Goering he said:

> "Your Excellency,
>
> In this matter we have already a very complete plan for Austria. There are 12,000 Jewish artisans and 5,000 Jewish retail shops in Vienna. Before the National Revolution, we had already a definite plan for tradesmen, regarding this total of 17,000 stores. Of the shops of the 12,000 artisans about 10,000 were to be closed indefinitely and 2,000 were to be kept open. 4,000 of the 5,000 retail stores should be closed and 1,000 should be kept open, that is were to be Aryanized. According to this plan, between 3,000 and 3,500 of the total of 17,000 stores would be kept open, all other closed. This was decided following investigations in every single branch and according to local needs, in agreement with all competent authorities, and is ready for publication as soon as we receive the law which we requested in September; this law shall empower us to withdraw licenses from artisans quite independently from the Jewish Question".

To this the defendant Goering replied:

> "I shall have this decree issued today".

The stenographic report of this meeting further reveals that the solution to the so called "Jewish Problem" adopted in Austria by the defendant Seyss-Inquart and his official family was most efficient from the viewpoint of Nazi objectives. The plan adopted in Austria became a model for the entire Reich.

> 1816-PS, Stenographic report of the meeting on "The Jewish Question" under the Chairmanship of Fieldmarshal Goering, 12 November 1938.

A report of the Bureau of Statistics for the Provinces of Austria on the Jewish population in Vienna and in Austria, dated 15

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December 1939, shows that after the Nazi conspirators assumed power in Austria, the Jewish population in that country decreased approximately 100,000.

1949-PS, Report of the Bureau of Statistics for the Provinces of the Ostmark, dated 15 December 1939.

While the reasons for the decreases in the Jewish population of Austria would seem to be obvious, yet tangible evidence of at least one reason is provided by the defendant Seyss-Inquart himself in a letter written by him to Himmler dated 4 November 1939. In substance Seyss-Inquart, while Deputy Governor General of the Polish Occupied Territory, stated that an official in Cracow had informed him that there was a plan to send Jews from Vienna to Poland, whereupon he gave instructions that such action should be carried out only in cooperation with the SD and by the SD, but he would not permit wild-cat actions.

3398-PS, Letter from Seyss-Inquart to Himmler, dated 4 November 1939.

2. PERSECUTION ON POLITICAL GROUNDS

The defendant Seyss-Inquart has supplied the evidence showing that the SS in Austria was responsible for the murder of Chancellor Dolfuss on 25 July 1934.

3425-PS, Voluntary statement signed by Seyss-Inquart, with advice of counsel, on 10 December 1945.

Seyss-Inquart also supplied the evidence that his predecessor as Chancellor of Austria, von Schuschnigg, had been confined in a concentration camp after his forced resignation from office, as has been demonstrated elsewhere in this brief.

3254-PS, Memorandum "The Austrian Question", by Seyss-Inquart, p. 36.

b. POLAND

1. PERSECUTION OF THE JEWS

The manner in which Polish Jews were treated and given "special handling" by the Nazi conspirators is a matter of common

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knowledge. However, the treatment of the Jews in Poland by the Nazis was described in detail in the "Black Book of Poland". This document tells of the establishment of special reservations for the Jews as well as ghettos in various parts of Poland. The document also relates how the Jews were starved and exterminated in large numbers. A great portion of these crimes were committed in Poland by the Nazis while the defendant Seyss-Inquart occupied the position of Deputy Governor General of the Polish Occupied Territory.

2613-PS, "The Black Book of Poland", pages 236-247.

During the time that the defendant Seyss-Inquart held this high office in the Nazi government of Poland, a special decree was issued by the defendant Frank, dated 26 October 1939, which required compulsory labor for Jews domiciled in the General Government of Poland. The decree was to take effect immediately and the Jews were to be formed in forced labor groups. The execution of the decree was placed in the hands of the Higher SS and Police Leaders.

2613-PS, "The Black Book of Poland", p. 573.

For further data and proof of Crimes Against Humanity as set for in Count Four of the Indictment reference is made to the Brief relating to the individual responsibility of the defendant Frank prepared by Section 3, the Briefs entitled "Purge of Political Opponents; Terrorization", "Supression of the Christian Churches in Germany", and "Adoption and Publication of the Program for Persecution of the Jews" prepared by Section 1, and the various Briefs on the "Waging of Ruthless Warfare" prepared by Section 4, with particular emphasis on such crimes as were committed in Austria, Poland and the Netherlands. Considerable evidence concerning such crimes as were committed in the Netherlands, while the defendant Seyss-Inquart held office as Reich Commissar for the Occupied Netherlands, will be found in that portion of this Brief immediately following.

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c. THE NETHERLANDS

1. Persecution of the Jews.

Seyss-Inquart, in his capacity as Reich Commissar of the occupied Dutch territory, bears full individual responsibility for the execution in the Netherlands of the Nazi program of persecution of Jews. Acts against the Jews authorized, directed, or condoned by Seyss-Inquart, which constitute war crimes and crimes against humanity as defined in Article 6 (b) and (c) of the Charter, included: stigmatization, disfranchisement; denial of civil rights; personal liberty and economic freedom; religious and cultural persecution; use of organized "spontaneous violence" against persons and property of Jews; ghettoization; starvation; enforced labor, enslavement, mass deportation and annihilation.

The intentions of this defendant with respect to treatment of the Jews is a matter of record. In a speech before a gathering of all workers and trades of the NSDAP at Amsterdam on 13 March 1941 he left no doubt as to where he stood on the Jewish question. The following is quoted from that speech:

> "The Jews are the enemy of national socialism and the national socialistic Reich. From the moment of their emancipation, their methods were directed to the annihilation of the common and moral worth of the German people and to replace national and responsible ideology with international nihilism. The fatal meaning of Judaism became completely clear to the German people during the years of the world war. It was really they, who stuck the knife in the back of the German army which broke the resistance of the Germans, and in the year 1918, it was they who wanted to dissolve and decompose all national tradition and also moral and religious beliefs of the German people. The Jews for us are not Dutchmen. They are those enemies with whom we can neither come to an armistice nor to peace. This applies here, if you wish, for the duration of the occupation. Do not expect an order from me which stipulates this, except regulations concerning police matters. We will beat the Jews wherever we meet them, and those who join them must bear the consequences. The Fuehrer declared that the Jews have played their final act in Europe, and therefore they played their final act." (Emphasis supplied.)

3430-PS, Seyss-Inquart, Vier Jahre in Den Niederlanden, Gesammelte Reden (Four Years in The Netherlands, Collected Speeches); Volk und Reich Verlag, Amsterdam, 1944, p. 57.

Following his assumption of office in the Netherlands on 29 May 1940, Seyss-Inquart, pursuant to the authority vested in him as Reich Commissar of the Netherlands by the Fuehrer decree of 18 May 1940, systematically promulgated decrees designed to implement the Nazi program of persecution and elimination of Jews. The defendant promulgated a law which prohibited the Jewish ritual slaughter of animals in the Netherlands Occupied Territories, which made it impossible for devout orthodox Jews to live in accordance with their religious dietary laws.

2705-PS, Verordnungsblatt für die besetzten niederlandischen Gebiete, No. 16, 1940, No. 80, s. 247, signed by Seyss-Inquart.

Other decrees of a like nature, all of which were signed by Seyss-Inquart and published in the Verordnungsblatt für die besetzten niederlandischen Gebiete (VOBI), are summarized in the tabulation below, viz:

SUMMARIZATION OF OTHER ANTI-SEMITIC DECREES PROMULGATED BY SEYSS-INQUART

Publication date and No. of VOBI	Summary of Subject Matter
3333-PS, Verordnungsblatt, No. 33, p. 546, 26 Oct 1940	Order to register all businesses belonging to Jews, joint stock corporations including either one Jewish partner or one Jewish member in their Board of Directors, or those of which more than 25% of the capital stock belong to Jews or those in which half of all votes are to be exercised by Jews, or in general, businesses which in fact are placed under predominatingly Jewish influence. Section 4 defines the quality of a Jew. Property situated abroad is to be embodied in the declaration of registration. Failure wilfully of declaration is punished by imprisonment not exceeding 5 years and by a fine not exceeding 100,000 gulders or either of these penalties, while the same due to negligence entails an imprisonment not exceeding one year or a fine not exceeding 10,000 florins; in addition confiscation of the property concerned may be ordered.

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3334-PS, Verordnungsblatt, No. 42, p. 701, 27 Dec 1940	Prohibition to employ German citizens or persons of cognate blood in Jewish households under a penalty not exceeding one year imprisonment and a fine of 10,000 guilders or either of these penalties.
3323-PS, Verordnungsblatt, No. 6, p. 19, 13 Jan 1941	Registration of all persons of part or full Jewish blood. Sec. 2 defines as a Jew any person one of whose grandparents was a full-blooded Jew. Any grandparent who belonged or belongs to the Jewish religious community is considered as such. Failure to register entails an imprisonment not exceeding 5 years and the confiscation of property (Sec. 10).
3325-PS, Verordnungsblatt, No. 6, p. 99, 14 Feb 1941	Limitation of registration of Jewish students in Dutch universities and colleges.
2112-PS, Verordnungsblatt, No. 34, p. 655, 16 Aug 1941	Obligation to register real estate, mortgages and real property belonging to Jews, other than farming estates and lands regulated by a previous ordinance. Power granted to the Dutch administration of real property to take over directly, or through persons appointed for the purpose, the management of Jewish real property, with the right to alienate it in part or in whole.
3326-PS, Verordnungsblatt, No. 39, p. 785, 20 Sep 1941	Freezing of property belonging to Jews who have emigrated from Holland which is located in Holland.
3329-PS, Verordnungsblatt, No. 44, p. 846, 23 Oct 1941	Prohibition to employ a non-Jew in households headed by a Jew or where a Jew is a member of the family, whether permanently or temporarily but for an unbroken term of more than four weeks. Any contract contrary to this provision is inoperative. Penalties for the employer: imprisonment up to one year and a fine up to 10,000 florins.
3328-PS, Verordnungsblatt, No. 44, p. 841, 23 Oct 1941	No Jew can exercise any profession and trade without authorization from the administrative authorities which may refuse it or set up special conditions for its exercise. Administrative authorities may order the termination or the liquidation of any employment contract concerning a Jew. Any employer may terminate a contract with a Jew by giving notice on the first day of any calendar month if the general legal provisions of the contract provide for a longer term of notice, or if the contract is to expire normally at a date after 31 Jan 1942. An indemnity ranging from one to six times the monthly salary of the dismissed Jew may be, under certain circumstances, allocated as a settlement of all claims against the employer.

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3329-PS, Verordnungsblatt, No. 47, p. 901, 25 Nov 1941	Exclusion of Jews from Dutch Chamber of Arts in which membership is compulsory for all those active in the field of sculpture, architecture, artisan arts, music, literature, theater, film industry and the press. Prohibition for a Jew or a person related to a Jew to be a member of an association affiliated with the Chamber of Arts, to found or to take part in the foundation of such an association or to establish a foundation or to take part in its establishment or to benefit directly or indirectly from its property where such associations or foundations are affiliated with the Chamber of Arts. Penalty: not exceeding 5,000 florins.
3325-PS, Verordnungsblatt, No. 11, p. 211, 1 May 1942	Exclusion of Jews from the Dutch "Arbeitsfront" (N.A.F.).
3336-PS, Verordnungsblatt, No. 13, p. 289, 23 May 1942	Compulsory written declaration by Jews of claims of any kind of which they are beneficiaries to be made at banking firm Lippman, Rosenthal & Co., Amsterdam. Titles and other documents proving the claims are to be delivered to the bank at the time of the declaration, all rights to such claims being vested in the above mentioned bank. The debtor can liberate himself only in the hands of the bank and by so doing is released. The declaration embodies also rights on property or chattels real, participations as in corporations and partnerships; reversions, expectancies. Collections of all kinds of art objects, art articles, articles of gold, platinum, silver, as well as polished or rough diamonds, semi-precious stones and pearls, belonging in part or in whole, legally or "economically" to a Jew, must be delivered to said bank , with exception of wedding rings and those of a deceased husband, silver watches, used table silver, provided that each person belonging to the family of the owner may keep only a cover consisting of 4 pieces, a knife, a fork, a spoon and a dessert spoon; teeth-fillings of precious metals.

A full recapitulation of the crimes perpetrated against the Jews by the German civil occupation authorities through the instrumentality of orders, decrees and laws is contained in the statement of the Netherlands Government Commissioner for Repatriation.

1726-PS, Statement of Netherlands Government concerning German War Crimes in the Netherlands.

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The above source is also evidence of the fact that in February 1941 the first mass deportation of Jews from the Netherlands took place. On that occasion 1000 Jews were arrested and within a few months sent to Buchenwald and/or Manthausen. Subsequently their ashes were returned to their relatives in Holland, against a payment of 75 florins for each. Deportation continued until September 1943, when the last of the Jews composed of the Jewish Council were sent to Westerbork (Holland). Of 140,000 registered "full" Jewish Netherlanders, 117,000 were deported to the East.

1726-PS : Statement of Netherlands Government concerning German War Crimes in the Netherlands.

D. A R G U M E N T

The evidence conclusively shows that the defendant Seyss-Inquart was an active participant with an important role in all stages of the conspiracy conceived and executed successfully by the Austrian and German Nazi conspirators relating to Aggression Against Austria and the seizure, consolidation and control of that previously independent nation by Germany. Despite the writings and assertions of this defendant since his arrest and indictment, Seyss-Inquart was no mere messenger boy or "telephone girl", as he called himself, because the documents describing his connection with the planning and execution of this conspiracy, including those which originated with him, prove that he was a key man. The manner in which he succeeded in infiltrating into the government of Chancellor von Schuschnigg shows clearly that Seyss-Inquart was a shrewd, astute and calculating political opportunist with a mission. It is more than obvious that this defendant was

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the selected and chosen "Trojan Horse" as the Minister of the Interior and Security in the government of Austria for his appointment was dictated by Hitler and there was no other Austrian Nazi in a position to be so favored. It is equally apparent that his claim, made since his arrest and indictment, to the effect that he desired to bring about the union of Austria with Germany by "legal and evolutionary means" is just the sort of thing a man would do whose sins have found him out. He has admitted in writing that he had maintained a fanatic, constant and persistent interest in the "Anschluss" of Austria with Germany for twenty years before it became an accomplished fact. He also admitted in writing that he desired a union of the two countries regardless of conditions or the kind of regime in power in the German Reich. He expressed in writing his joy over his accomplishment of his assigned mission as the willing tool of Hitler. Thereafter he was perfectly willing to enjoy the fruits thereof and accepted the plaudits of every important Nazi figure as his just due. Now, after his arrest and indictment, he is more than modest in disclaiming the credit for making Austria a part of the Greater German Reich, the desire of his heart since the utter defeat of the armed forces of the so called Central Powers in World War I. His constant and persistent contact and communication with all other major Nazi conspirators in the conception and execution of the conspiracy leaves no doubt in the minds of reasonble men that Seyss-Inquart knew even the minor details as well as the major objectives of the plot.

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"Methinks he protests too much." There can be no question but that the defendant Seyss-Inquart was a major conspirator in every sense and phase of the plot, and that he was guilty of disloyal and treasonable acts against a duly constituted government of Austria of which he was an important official.

The evidence shows that the defendant Seyss-Inquart even participated in the plot against his native land, Czechoslovakia.

While it is true that the defendant Seyss-Inquart was not the most important man in the Nazi General Government in Poland, yet it is clear from the evidence that he was sent to Poland as Deputy Governor General with a definite and specific mission. He was second only to the defendant Frank, who was Governor General of the Occupied Polish Territory, and both had authority over the Higher SS and Police Leaders as well as the General and Security Police forces. He was an active participant in the staff meetings held by the defendant Frank and thus aided in making the decisions that had such tragic consequences for Gentile as well as Jewish Poles and thus was not in ignorance of their fate under Nazi rule. Seyss-Inquart and the defendant Frank both provided the evidence proving that the former was sent to Poland as an expert organizer and administrator, which shows that this defendant was the professor and not the mere student of Nazi policies toward non-Germans in Poland. Thus the defendant Seyss-Inquart was guilty as a principal in all of the excesses, atrocities and crimes committed by the Germans in Poland dur- the time he held the office Deputy Governor General of that unhappy country.

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In the Netherlands we find the defendant Seyss-Inquart as the right arm and personal representative of Hitler, who made him the supreme power in the Civil Administration of the Occupied Netherlands Territories. From 1940 to 1945 the defendant Seyss-Inquart was the absolute master of every phase of Dutch life, the maker of laws by decree, and he held the fate of every Dutch subject in his two hands, subject only to the will of Hitler. Hitler's decree of 18 May 1940, appointing the defendant Seyss-Inquart Reich Commissar for the Occupied Netherlands Territories, conferred almost unlimited powers upon this defendant in the civil sphere. The defendant accepted this post with the full knowledge of the evil consequences of Nazi rule in Austria and Poland, and carried out the will of Hitler, Rosenberg, Sauckel, Himmler, Goering, and other luminaries of the Nazi regime. The mere fact that Nazi Germany was at war with almost the entire civilized World provided no excuse for Seyss-Inquart accepting this office, nor does it absolve him of his personal responsibility for the excesses, atrocities and crimes committed by Germans in the Netherlands while he ruled that country. There was no duty or obligation which required Seyss-Inquart to carry out orders or policies in violation of the laws of God and man recognized by every civilized nation. Not even a soldier has any such duty or obligation, and Seyss-Inquart was not a soldier in the Netherlands. There is no point in recounting the evidence here of the crimes, and atrocities committed in the Netherlands under Nazi rule, but that evidence shocks every decent person. The power and authority vested in the defendant Seyss-Inquart is alone sufficient to make him a principal in the commission of every crime, war crime,

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crime against peace, crime against humanity, and crime against the law of nations, but his overt acts in the furtherance of such crimes are a matter of record offered in evidence herein. The defendant's record shows an utter disregard of the obligations imposed by treaties, the right of the so called little people of the World to freedom in religious and political thought, and he conceded the right of self determination only to the Nazis and Fascists of the World. Under the doctrine of respondeat superior criminal responsibility on the part of the defendant Seyss-Inquart is imputable to him as a matter of law by virtue of his status. His criminal responsibility as an accomplice, or accessory, and as a principal has been equally well established.

C O N C L U S I O N

There is ample and sufficient evidence to support each and every allegation contained in Appendix "A" and Counts I, II, III, and IV of the Indictment of which the defendant Seyss-Inquart stands accused.

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H-1238

INTERNATIONAL MILITARY TRIBUNAL

TRIAL BRIEF

AGAINST

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